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**SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 1940**

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**No. 69**

**RECONSTRUCTION FINANCE CORPORATION, PRU-  
DENCE BONDS CORPORATION, PRESIDENT AND DI-  
RECTORS OF THE MANHATTAN COMPANY, ET AL.,  
PETITIONERS,**

**VS.**

**PRUDENCE SECURITIES ADVISORY GROUP, INDE-  
PENDENT PRUDENCE BONDHOLDERS COMMITTEE,  
ET AL.**

---

**ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SECOND CIRCUIT**

---

**PETITION FOR CERTIORARI FILED MAY 8, 1940**

**CERTIORARI GRANTED JUNE 8, 1940**

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**PROCEEDINGS IN THE DISTRICT COURT**

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**Order awarding allowances to Prudence Securities Advisory Group, et al.** 1

At a Stated Term of the United States District Court held in and for the Eastern District of New York at the Court House, Washington Street, Borough of Brooklyn, City of New York, on the 14th day of February, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

IN THE MATTER

of

PRUDENCE-BONDS CORPORATION,

Debtor.

In Proceedings for  
the Reorganization  
of a Corporation  
under Section 77B  
of the Bankruptcy  
Act.  
No. 26545.

 2

This Court having heretofore by orders dated respectively March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938, June 6, 1938 and eighteen orders dated January 18, 1938, referred to Honorable James G. Moore, as Special Master, the consideration of the persons or corporations to whom allowances for services and expenses should be made, together with the amounts thereof, for written report and recommendation with his opinion thereon, and in connection therewith said Special Master having been directed to conduct a hearing or hearings at which he was authorized, in his discretion, to receive applications and proofs thereof either by oral testimony or by affidavit as might be determined by said Special Master and notices required by said orders having been duly given and published in conformity therewith and hearings having been held by the Special

 3

- 4 Master as directed by said orders and provision having been made for the filing of applications for allowance and objections thereto, and applications having been filed by the Prudence Securities Advisory Group for compensation for its members for services rendered herein and reimbursement for disbursements reasonably and necessarily incurred herein, by Ralph DeWitt Keller, Secretary of the Prudence Securities Advisory Group and by Percival E. Jackson and Clinton T. Roe, as attorneys for the Prudence Securities Advisory Group, and objections having been filed thereto, and full opportunity having been accorded to all persons in interest to be heard on issues thereby raised, and hearings having been held and proof duly taken and the said proceedings having thereafter been duly closed before the
- 5 Special Master and he having had due deliberation thereon and having thereafter made and filed his intermediate report, dated November 30, 1938 with reference to the application for allowance aforesaid, among others, and the Prudence Securities Advisory Group having thereafter by notice of motion, dated December 1, 1938 moved this Court for an order passing upon the said intermediate report of the Special Master, dated November 30, 1938 and taking such action thereon on said report as the Court may deem advisable and granting such other and further relief as the Court might deem just and proper, and the hearing, pursuant to said notice, having duly come on in open Court on
- 6 December 9, 1938 and the same having been adjourned to December 16, 1938 and having duly come on to be heard on said day

Now, upon reading and filing said notice of motion of the Prudence Securities Advisory Group, dated December 1, 1938, and the affidavit of Hannah Odes, duly verified December 6, 1938 showing proof of due service of the notice of motion and the report of Honorable James G. Moore duly made and filed herein, dated November 30, 1938, insofar as said report relates to the applications for allowance made

and filed by the Prudence Securities Advisory Group for compensation for its members and reimbursement for disbursements necessarily incurred, by Ralph DeWitt Keller as Secretary of the Prudence Securities Advisory Group and by Percival E. Jackson and Clinton T. Roe as attorneys for the Prudence Securities Advisory Group, and the papers, exhibits and the record of the proceedings before said Special Master upon which said report of the Special Master, insofar as it relates to the applications set forth above, is based, and objections to the applications for allowance above made having been filed before the Special Master by Prudence-Bonds Corporation (new corporation), Reconstruction Finance Corporation and John M. McGrath and William T. Cowin as Trustees of The Prudence Company, Inc., being the only parties submitting papers in opposition to the aforesaid applications for allowance before the Special Master and the exceptions filed to said report, insofar as said exceptions affect the recommendations of the Special Master based on the applications for allowance set forth above, and the Court having heard Percival E. Jackson of counsel to the Prudence Securities Advisory Group in support of the confirmation of the report of the Special Master, dated November 30, 1938, insofar as said report passes on the applications for allowance filed by the Prudence Securities Advisory Group for compensation for services rendered by the members thereof and for reimbursement for disbursements necessarily and reasonably incurred herein, by Ralph DeWitt Keller, its Secretary and by Percival E. Jackson and Clinton T. Roe, its counsel, and the Court having heard the attorneys for the exceptants and all other parties sought to be heard thereon and the Court having had due deliberation thereon and having filed its memorandum opinion dated February 1, 1939

Now, on motion of Percival E. Jackson and Clinton T. Roe, attorneys for the Prudence Securities Advisory Group, it is

10 ORDERED, ADJUDGED AND DECREED that the report of Honorable James G. Moore, dated November 30, 1938, insofar as the same relates to the applications for allowance filed by the Prudence Securities Advisory Group for compensation for services rendered by its members and for reimbursement for disbursements necessarily and reasonably incurred herein, by Ralph DeWitt Keller, its Secretary and by Percival E. Jackson and Clinton T. Roe, its counsel, be and the same hereby is in all respects confirmed, and it is further

11 ORDERED, ADJUDGED AND DECREED that Prudence Bonds Corporation (new corporation) be and it hereby is authorized and directed to pay out of the funds in its hands applicable thereto and available therefor to the following persons the following sums respectively, forty-one (41) days after the date of this order:

	George A. Gaston, in full for his services as Chairman of Prudence Securities Advisory Group the sum of	\$ 1,000.00
	Ralph DeWitt Keller in full for his services as Secretary of Prudence Securities Advisory Group the sum of	3,500.00
	Edward S. Doyle, a member of the Prudence Securities Advisory Group, in full for his services rendered as such the sum of	500.00
12	A. C. Horn, a member of the Prudence Securities Advisory Group, in full for his services rendered as such the sum of	500.00
	Arthur M. Abell, a member of the Prudence Securities Advisory Group, in full for his services rendered as such the sum of	500.00
	Charles G. Hannah, a member of the Prudence Securities Advisory Group, in full for his services rendered as such the sum of	500.00



George A. Gaston, Chairman of the  
Prudence Securities Advisory  
Group, for reimbursement for dis-  
bursements necessarily incurred by  
the Prudence Securities Advisory  
Group, the sum of 10,592.69 13

Matthews Brown & Co., accountants for  
the Prudence Securities Advisory  
Group, in full for their services ren-  
dered as such accountants the sum  
of 8,450.00

Percival E. Jackson and Clinton T. Roe,  
in full for their compensation for  
their services rendered herein and  
their disbursements incurred as  
counsel to the Prudence Securities  
Advisory Group, the sum of 40,177.36 14

ROBERT A. INCH  
U. S. D. J.

**Order awarding allowances to Metz Committee, et al.**

At a Stated Term of the United States District  
Court for the Eastern District of New  
York, held at the United States Court  
House thereof, in the Borough of Brooklyn,  
County of Kings, on the 14th day of Febru-  
ary, 1939. 15

Present: Hon. ROBERT A. INCH, District Judge.

[CAPTION]

This Court by orders dated March 11, 1936, May 6, 1936,  
July 21, 1937, June 3, 1938 and June 6, 1938, and eighteen  
orders dated January 18, 1938, having referred to Hon.

16 James G. Moore as Special Master the consideration of the persons or corporations to whom allowances for services or expenses should be made herein; and said Special Master having filed with the Court his report dated November 30, 1938,

Now, upon consideration of said report and the petition of Rabenold, Scribner & Miller and Mark Hyman verified October 27, 1937, the supplemental petition of Rabenold, Scribner & Miller and Mark Hyman verified January 18, 1938, the petition of Rabenold, Scribner & Miller and Mark Hyman verified May 7, 1938, the petition of Adam Metz, Charles S. Oakley and Edward W. Smith, as a Committee, verified May 9, 1938, the affidavit of Louis G. Bernstein sworn to September 6, 1938, the exceptions of Rabenold, Scribner & Miller and Mark Hyman dated December 27, 1938, and the affidavit of Louis G. Bernstein sworn to December 30, 1938, on behalf of said petitioners; and the Answer and Objections of Prudence-Bonds Corporation (the new corporation) verified August 19, 1938, the affidavit of Jerome Thralls sworn to August 20, 1938, the affidavit of John W. McGrath and William T. Cowin as Trustees of The Prudence Company, Inc., verified August 22, 1938, the Exceptions of said Prudence-Bonds Corporation verified December 16, 1938, and the Objections of Reconstruction Finance Corporation verified December 23, 1938, in respect to said petitioners; and the notice of hearing dated December 12, 1938; and after arguments by counsel for the several parties in interest; and thereupon upon consideration thereof, and upon filing the memorandum of the Court dated February 1, 1939, it is

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ORDERED that the report of the Special Master dated November 30, 1938, in respect to the compensation for services and expenses to said Adam Metz, Charles S. Oakley and Edward W. Smith, as a Committee, and Rabenold, Scribner & Miller and Mark Hyman as attorneys, is hereby confirmed; and that the Objections and Exceptions to said

report in respect to such compensation for services and expenses are hereby overruled; and it is further

19

ORDERED that Prudence-Bonds Corporation (the new corporation) shall make the following payments forty-one days after the entry of this order:

Adam Metz (for services)	\$ 500.00
Charles S. Oakley (for services)	500.00
Edward W. Smith (for services)	500.00
Tracy A. Williams (for services)	3,500.00
Adam Metz, Charles S. Oakley and Edward W. Smith, as a Committee (for disbursements)	3,386.07
Adam Metz, Charles S. Oakley and Edward W. Smith, as a Committee (for services of experts)	300.00
Rabenold, Scribner & Miller and Mark Hyman (for services)	35,000.00
Rabenold, Scribner & Miller (for disbursements)	100.00

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R. A. INCH  
U. S. D. J.

Order awarding allowances to Trustees of the Debtor, et al.

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, on the 16th day of February, 1939.

21

Present: Hon. ROBERT A. INCH, District Judge.

[CAPTION]

The Court having heretofore and by orders dated March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938, June 6, 1938, and eighteen orders dated January 18, 1938, referred

22 to James G. Moore as Special Master, the consideration of the persons or corporations to whom allowances for services or expenses should be made, together with the amount thereof, for written report and recommendation to this Court with his opinion thereon; and the said James G. Moore as Special Master having thereupon given due notice to all parties and their attorneys to file their applications for allowances and to file any and all objections and exceptions thereto, and the time for the filing of objections and exceptions having been extended by the Special Master from time to time, and the Special Master having afforded all interested parties a full opportunity to be heard and offer testimony; and the Special Master having filed his intermediate report dated November 30th, 1938, and the Prudence Advisory Group, Intervenor, having duly moved this Court by motion dated December 1st, 1938 for an order passing upon the said intermediate report of the Special Master dated November 30th, 1938 and taking such action thereon as the Court may deem advisable, and granting such other and further relief as this Court may deem proper; and the hearing pursuant to said notice having duly come on in open court on December 9th, 1938, and the same having been adjourned to December 16th, 1938 and having been duly heard on that day,

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24 Now upon reading and filing said notice of Prudence Advisory Group, Intervenor, dated December 1st, 1938, with proof of due service thereof and upon reading and filing the petition of Charles H. Kelby and Clifford S. Kelsey, verified May 9th, 1938, the petition of Geo. C. Wildermuth, verified May 9th, 1938 and the exhibits attached thereto or referred to therein and said intermediate report of the Special Master, dated November 30, 1938, and the exhibits and papers and the record of the proceeding before said Special Master, insofar as they relate to the allowances of Charles H. Kelby, Clifford S. Kelsey and Geo. C. Wildermuth, in support of their respective applications for allowances, and the affidavit of Thomas W. Streeter, President of the Pru-



dence-Bonds Corporation (New Corporation), verified August 19th, 1938, the affidavit of Jerome Thralls, Authorized Special Representative for the Reconstruction Finance Corporation, verified August 20th, 1938, the affidavit of the Trustees of the Prudence Company, Inc., verified August 22nd, 1938, insofar as they all relate to the allowances of Charles H. Kelby, Clifford S. Kelsey and Geo. C. Wildermuth, being the only papers submitted in opposition to the aforesaid applications for allowances before the Special Master; and after reading and filing the exceptions of the Mayer Committee dated December 9th, 1938, the exceptions and objections of Prudence-Bonds Corporation (New Corporation), dated December 16th, 1938, the objections of the Reconstruction Finance Corporation, dated December 23rd, 1938, insofar as they all relate to the allowances of Charles H. Kelby, Clifford S. Kelsey and Geo. C. Wildermuth, submitted in opposition to the aforesaid applications upon the motion to confirm the Special Master's report; and after hearing Geo. C. Wildermuth in support of said applications, and after hearing Archibald Palmer, Esq., attorney for the Mayer Committee, in opposition to said applications and James F. Dealy, attorney for the Reconstruction Finance Corporation and Charles M. McCarty, attorney for the Prudence-Bonds Corporation (New Corporation), in opposition to said applications, in that the aggregate total of all allowances is excessive and not fair and reasonable; and upon the papers upon which they were granted, and due deliberation having been had thereon, and upon filing the opinion of the Court, it is

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ORDERED, ADJUDGED, DIRECTED, FOUND and DECREED, as follows:

I. That the intermediate report of the Special Master, dated November 30th, 1938, insofar as it related to the applications for allowances by Charles H. Kelby and Clifford S. Kelsey, Trustees of the Prudence-Bonds Corporation and Geo. C. Wildermuth, attorney for the Trustees of the Prudence-Bonds Corporation, be and the same hereby is in all

28 respects approved and confirmed and that the findings of fact and conclusions of law contained in said intermediate report, insofar as they relate to the applications for allowances by Charles H. Kelby, Clifford S. Kelsey and Geo. C. Wildermuth, be and they hereby are made the findings of fact and conclusion of law of this Court; and that the Objections and Exceptions to said report, insofar as they relate to Charles H. Kelby, Clifford S. Kelsey and Geo. C. Wildermuth, be and the same are hereby overruled.

29 II. That the additional sum of Forty-five thousand (\$45,000.) Dollars be and the same is hereby fixed, awarded, and granted as fair and reasonable compensation to Charles H. Kelby, one of the Trustees of the Prudence-Bonds Corporation as and for services rendered by him as Trustee as set forth in his petition dated May 9th, 1938.

III. That the additional sum of Thirty-seven thousand five hundred (\$37,500.) Dollars be and the same is hereby fixed, awarded, and granted as fair and reasonable compensation to Clifford S. Kelsey, one of the Trustees of the Prudence-Bonds Corporation as and for services rendered by him as Trustee as set forth in his petition dated May 9th, 1938.

30 IV. That the additional sum of Eighty thousand (\$80,000.) Dollars be and the same is hereby fixed, awarded, and granted as fair and reasonable compensation to Geo. C. Wildermuth, attorney for the Trustees, as and for legal services rendered by him as attorney for the Trustees as set forth in his petition dated May 9th, 1938.

V. That the said sums aforesaid in paragraphs II, III and IV hereof be paid to the said Charles H. Kelby, Clifford S. Kelsey and Geo. C. Wildermuth by the Prudence-Bonds Corporation (New Corporation) from the fund in their possession for that purpose pursuant to order of this Court dated April 5th, 1938, 41 days after the entry of this Order.

ROBERT A. INCH  
U. S. D. J.

**Order awarding allowances to Sixteenth Series  
Committee, et al.**

31

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, on the 16th day of February, 1939.

Present: Honorable ROBERT A. INCH, District Judge.

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[ CAPTION ]

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This Court having heretofore, and by orders dated March 11th, 1936; May 6th, 1936; July 21st, 1937; June 3rd, 1938; and June 6th, 1938, and eighteen orders dated January 18th, 1938, rendered to Honorable James G. Moore, as Special Master, the consideration of the persons or corporations to whom allowances for services or expenses should be made herein, together with the amounts thereof, for written report and recommendation to this Court with his opinion thereon, and the said Special Master having thereupon given due notice to all parties and their attorneys to file their applications for allowances, and various applications for allowances, including the application of Hubert E. Rogers, Spier Whitaker and John F. Condon, Jr., constituting the firm of Rogers & Whitaker, and of Almet Reed Latson and Almet R. Latson, Jr., constituting the firm of Latson & Tamblin, and the application of D. J. Pastorelle, Benjamin Anderson, Ross Mathews and Fred Bergheim, which said last application included as an item thereof compensation to Harry Hall, having been duly filed, and the Special Master having thereafter duly fixed the time for the filing of objections and exceptions to the applications for allowances filed with the Special Master as aforesaid, and the time for the filing of said objections and

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34 exceptions having been extended by the Special Master from time to time, and the Special Master having thereupon fixed a date for the hearing of testimony with reference thereto, and having afforded all interested parties a full opportunity to be heard and offer testimony with reference to said matters, and the Special Master having thereafter duly filed his Intermediate Report, dated November 30th, 1938, and a motion having thereafter been duly made for an order passing upon said Intermediate Report, and the hearing upon said motion having duly come on in open Court on the 9th day of December, 1938, and having thereafter been adjourned to December 16th, 1938, at which time various parties were heard with reference thereto; Now

35 upon reading and filing the petitions of Hubert E. Rogers, Spier Whitaker and John F. Condon, Jr., constituting the firm of Rogers & Whitaker, and of Almet Reed Latson and Almet R. Latson, Jr., constituting the firm of Latson & Tamblyn, and the application of D. J. Pastorelle, Benjamin Anderson, Ross Mathews and Fred Bergheim, which said last application included as an item thereof compensation to Harry Hall, for allowances herein, and the exhibits attached thereto, and the supplementary affidavit of Hubert E. Rogers and Almet R. Latson, Jr. filed with the Special Master in compliance with general order in Bankruptcy XLII, and the reply of Hubert E. Rogers, Spier Whitaker and John F. Condon, Jr., constituting the firm of Rogers

36 & Whitaker, and of Almet Reed Latson and Almet R. Latson, Jr., constituting the firm of Latson & Tamblyn, to the objections of Prudence Bonds Corporation, Reconstruction Finance Corporation and John M. McGrath and William T. Cowin, Trustees of the Prudence Company, Inc., and upon the said Intermediate Report of the Special Master filed herein on November 30th, 1938, and the exhibits, papers and record of proceedings before the said Special Master, and upon the notice of motion herein dated December 1st, 1938, for an order passing upon the said Intermediate Report; all read in support of the motion, and;



Upon reading and filing the answer and objections filed with the Special Master by Prudence Bonds Corporation, the new corporation, pursuant to the plans of reorganization approved and confirmed in these proceedings; and the affidavit of Jerome Thralls, verified the 20th day of August, 1938, on behalf of the Reconstruction Finance Corporation; and the affidavit of John M. McGrath and William T. Cowin, verified the 22nd day of August, 1938, as Trustees of the Prudence Company, Inc., filed with the Special Master, and the exceptions of the so-called Mayer Committee dated December 9th, 1938, and the exceptions and objections of Prudence Bonds Corporation (new corporation) to the reports of the Special Master dated November 30th, 1938 and December 12th, 1938, and the objections of Reconstruction Finance Corporation to the Intermediate Reports on the matter of allowances herein of James G. Moore, Special Master, dated November 30th, 1938 and December 12th, 1938 respectively, and to the confirmation thereof; all read in opposition to the motion, and after hearing Almet R. Latson, Jr. in support of the applications, and Archibald Palmer, attorney for the Mayer Committee; James F. Dealy, attorney for the Reconstruction Finance Corporation; and Charles M. McCarty, attorney for Prudence Bonds Corporation (new corporation), in opposition to said applications, and the Court having thereupon, after due deliberation, rendered its opinion herein, and upon filing said opinion, it is

ORDERED, ADJUDGED, DIRECTED, FOUND AND DECREED as follows:

1. That the Intermediate Report of the Special Master, filed herein on November 30th, 1938, insofar as it relates to the applications for allowances by Hubert E. Rogers, Spier Whitaker and John F. Condon, Jr., constituting the firm of Rogers & Whitaker, and of Almet Reed Latson and Almet R. Latson, Jr., constituting the firm of Latson & Tamblyn, and the application of D. J. Pastorelle, Benjamin

40 Anderson, Ross Mathews and Fred Bergheim (including the item thereof being compensation to Harry Hall), be and the same hereby is in all respects approved and confirmed, and the findings of fact and conclusions of law contained in said Intermediate Report, insofar as they relate to the said applications for allowances, be and they hereby are made the findings of fact and conclusions of law of this Court, and the objections and exceptions to said Report, insofar as they relate to said applications, be and the same hereby are overruled.

41 2. That the sum of Three Thousand and 00/100 (\$3,000.00) Dollars be and the same is hereby fixed, awarded and granted as fair and reasonable compensation to Benjamin Anderson, the Secretary and a member of the Bondholders Protective Committee, Prudence Bonds Corporation, Sixteenth Series Bonds, and that Prudence Bonds Corporation (new corporation) be and it hereby is ORDERED AND DIRECTED to make payment of said sum to the said Benjamin Anderson forty-one (41) days after the date of the entry of this order from the fund in its possession for that purpose, pursuant to order of this Court dated April 5th, 1938.

42 3. That the sum of Two Hundred and 00/100 (\$200.00) Dollars be and the same is hereby fixed, awarded and granted as fair and reasonable compensation to D. J. Pastorelle, the Chairman and a member of the Bondholders Protective Committee, Prudence Bonds Corporation, Sixteenth Series Bonds, and that Prudence Bonds Corporation (new corporation) be and it hereby is ORDERED AND DIRECTED to make payment of said sum to the said D. J. Pastorelle forty-one (41) days after the date of the entry of this order from the fund in its possession for that purpose, pursuant to order of this Court dated April 5th, 1938.

4. That the sum of Two Hundred and Fifty and 00/100 (\$250.00) Dollars be and the same is hereby fixed, awarded

and granted as fair and reasonable compensation to Fred Bergheim, a member of the Bondholders Protective Committee, Prudence Bonds Corporation, Sixteenth Series Bonds, and that Prudence Bonds Corporation (new corporation) be and it hereby is ORDERED AND DIRECTED to make payment of said sum to the said Fred Bergheim forty-one (41) days after the date of the entry of this order from the fund in its possession for that purpose, pursuant to order of this Court dated April 5th, 1938.

43

5. That the sum of One Thousand and 00/100 (\$1,000.00) Dollars be and the same is hereby fixed, awarded and granted as fair and reasonable compensation to Harry Hall, an expert witness who appeared in these proceedings on behalf of the Bondholders Protective Committee, Prudence Bonds Corporation, Sixteenth Series Bonds, and that Prudence Bonds Corporation (new corporation) be and it hereby is ORDERED AND DIRECTED to make payment of said sum to the said Harry Hall forty-one (41) days after the date of the entry of this order from the fund in its possession for that purpose, pursuant to order of this Court dated April 5th, 1938.

44

6. That the sum of Three Thousand Five Hundred and Sixty-three and 54/100 (\$3,563.54) Dollars be and the same is hereby fixed, awarded and granted as reimbursement to the Bondholders Protective Committee, Prudence Bonds Corporation, Sixteenth Series Bonds, for their disbursements in connection with this proceeding, and that Prudence Bonds Corporation (new corporation) be and it hereby is ORDERED AND DIRECTED to make payment of said sum to Benjamin Anderson, as Secretary of said Bondholders Protective Committee, Prudence Bonds Corporation, Sixteenth Series Bonds, forty-one (41) days after the date of the entry of this order from the fund in its possession for that purpose, pursuant to order of this Court dated April 5th, 1938.

45

46 7. That the sum of Thirty Thousand One Hundred and Eighty-eight and 42/100 (\$30,188.42) Dollars be and the same is hereby fixed, awarded and granted to Hubert E. Rogers, Spier Whitaker and John F. Condon, Jr., constituting the firm of Rogers & Whitaker, and Almet Reed Latson and Almet R. Latson, Jr., constituting the firm of Latson & Tamblyn, as fair and reasonable compensation for their legal services rendered by them as attorneys for the Bondholders Protective Committee, Prudence Bonds Corporation, Sixteenth Series Bonds in this proceeding, and their disbursements in connection therewith, and that the Prudence Bonds Corporation (new corporation) be and it hereby is ORDERED AND DIRECTED to make payment of said sum to Rogers & Whitaker and Latson & Tamblyn, forty-  
 47 one (41) days after the date of the entry of this order from the fund in its possession for that purpose, pursuant to order of this Court dated April 5th, 1938.

ROBT. A. INCH  
 U. S. D. J.

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**Order awarding allowance to Samuel Silbiger.**

48 At a Stated Term of the United States District Court for the Eastern District of New York held at the United States Court House, Borough of Brooklyn, City of New York, on the 16th day of February, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

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[ CAPTION ]

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The petitioner, Samuel Silbiger, having presented his application to this Court for an allowance of counsel fees



for services rendered in this proceeding, and the said application having been duly referred by me to James E. Moore, Special Master, for hearing and report, with his recommendation and opinion thereon, and the report of the Special Master having been duly filed herein on November 30th, 1938; and the matter having come on to be heard by me for final disposition and submitted on December 30th, 1938,

49

Now, on reading and filing the petition of Samuel Silbiger, verified October 13th, 1936, his supplemental petition, verified May 7th, 1938; the affidavit of Samuel Silbiger, verified June 7th, 1938; the answer of Reconstruction Finance Corporation (affidavit of Jerome Thralls, verified August 20th, 1938); the answer of Prudence-Bonds Corporation (affidavit of Thomas W. Streeter, verified August 19th, 1938); the answer of Trustees of The Prudence Company, Inc., verified August 22nd, 1938; the said report of the Special Master; the exceptions to said report made and filed herein by the petitioner Samuel Silbiger and dated December 9th, 1938; the exceptions to said report by Reconstruction Finance Corporation, dated December 23rd, 1938; the exceptions and objections to said report by Prudence Bonds Corporation (New Corporation), dated December 16th, 1938; and having heard counsel for the respective parties in support and opposition to said petition, and due deliberation having been had;

50

Now, on motion of Samuel Silbiger, attorney pro se, it is

51

ORDERED, that the report of the Special Master on the application of Samuel Silbiger for an allowance, as same is herein modified, be and the same is hereby confirmed; and it is further

ORDERED, that the application of Samuel Silbiger for an allowance of counsel fees for his services rendered herein, be and the same hereby is granted, and the amount of his compensation be and hereby is fixed at the sum of \$5,000.00; and it is further

52 ORDERED, that Prudence Bonds Corporation (New Corporation) pay on the expiration of 41 days from the entry of this order to Samuel Silbiger as and for his compensation for services rendered herein, the sum of Five Thousand (\$5,000.00) Dollars.

ROBERT A. INCH,  
U. S. D. J.

**Order awarding allowance to attorneys for Debtor.**

53 At a stated term of the United States District Court for the Eastern District of New York held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, on the 21 day of February, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

[CAPTION]

54 The consideration of the persons or corporations to whom allowances for services and expenses should be made herein, together with the amount thereof, having heretofore been referred by this Court, by orders dated respectively March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938, June 6, 1938, and 18 orders each dated January 18, 1938, to James G. Moore, Esq., as Special Master, for written report and recommendations to this Court with his opinion thereon;

And said James G. Moore, Esq., as Special Master, having given due notice to all parties and their attorneys to file their applications for allowances and any and all objec-

tions and exceptions thereto, and the time for the filing of objections and exceptions having been extended by the Special Master from time to time and all interested parties having been accorded a full opportunity to be heard and offer testimony before the Special Master and the Special Master having filed his Intermediate Report dated November 30, 1938;

55

And the Prudence Advisory Group, Intervenor, having duly moved this Court by motion dated December 1, 1938 for an order passing upon said Intermediate Report of the Special Master dated November 30, 1938, and taking such action thereon as to the Court may seem proper, and the hearing pursuant to said notice having duly come on in open court on December 9, 1938 and having been duly adjourned to December 16, 1938 and having been duly heard in open court on that day;

56

Now, upon reading and filing said notice of motion of Prudence Advisory Group, Intervenor, dated December 1, 1938, with proof of due service thereof, and upon reading and filing the petition of Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, duly verified May 9, 1938 and all exhibits thereto attached, the affidavits of Clinton J. Ruch, verified respectively May 9, 1938 and June 7, 1938, and said Intermediate Report of James G. Moore, Esq., as Special Master, dated November 30, 1938, and the exhibits and papers thereto annexed in so far as they relate to the matter of allowances to Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, as attorneys for the Debtor, in support of their application for an allowance; and upon reading and filing the affidavit of Thomas W. Streeter, President of Prudence Bonds Corporation (new corporation), verified August 19, 1938, the affidavit of Jerome Thralls, special representative of Reconstruction Finance Corporation, verified August 20, 1938, and the affidavit of the Trustees of The Prudence Company, Inc., verified August 22, 1938, in

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58 so far but only in so far as said affidavits and each thereof relate to the matter of allowances to said Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, attorneys for the Debtor herein, being the only papers submitted to the Special Master in opposition to the aforesaid application for allowances; and after reading and filing the exceptions of the Mayer Committee dated December 9, 1938, the exceptions and objections of Prudence Bonds Corporation (new corporation), dated December 16, 1938, the objections of the Reconstruction Finance Corporation dated December 23, 1938, and the exceptions and objections of President and Directors of The Manhattan Company, dated December 27, 1938, in so far but only in so far as said exceptions and

59 objections relate to the matter of allowances to said Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, attorneys for the Debtor aforesaid, submitted in opposition to the aforesaid application upon the motion to confirm the Special Master's report, and on reading and filing the objections of Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, dated December 9, 1938, and the affidavit of Clinton J. Ruch verified December 15, 1938, submitted on behalf of said applicants upon the motion to confirm the Special Master's report; and after arguments by counsel for the several parties in interest; and upon consideration thereof and upon filing the memorandum of the Court dated February 1, 1939, it is

60 ORDERED, that the Intermediate Report of the Special Master dated November 30, 1938, in respect of the allowance of compensation for services and reimbursement of expenses to said Frueauff, Burns, O'Brien & Ruch and Powell & Ruch as attorneys for the Debtor herein, be and it hereby is confirmed; and that all objections and exceptions to said Report in respect to such compensation and expenses are hereby overruled; and it is further



ORDERED, that the sum of sixty-nine thousand dollars (\$69,000) be and the same hereby is fixed, awarded, granted and allowed as reasonable compensation to Frueauff, Burns, O'Brien & Ruch and Powell & Ruch for services rendered herein as attorneys for the Debtor, and the sum of two thousand six hundred twenty-three dollars and nineteen cents (\$2,623.19) is hereby fixed, awarded, granted and allowed to said Frueauff, Burns, O'Brien & Ruch and Powell & Ruch as reimbursement for expenses incurred by them herein, as attorneys for the Debtor as aforesaid; and it is further

61

ORDERED, that Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor herein, pay to said Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, forty-one (41) days after the entry of this order, the sum of nine thousand dollars less the payment to Edward Endelman of \$1,500 and the payment to Empire Trust Company of \$1,101.96 out of the fund in their hands for the payment of allowances and expenses in the reorganization of the Seneca Issue of Mortgage Participation Certificates of the Debtor; and it is further

62

ORDERED, that Prudence Bonds Corporation (new corporation) pay to said Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, forty-one (41) days after the entry of this order, out of the fund in its possession for the payment of reorganization allowances and expenses pursuant to the order of this Court dated April 5, 1938, the sum of sixty-two thousand, six hundred twenty-three dollars and nineteen cents (\$62,623.19).

63

ROBERT A. INCH

U. S. D. J., E. D. N. Y.

64

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

IN THE MATTER

of

PRUDENCE-BONDS CORPORATION,

Debtor.

No. 26545

In Proceedings for  
Reorganization  
under Section 77B  
of the Bankruptcy  
Act.

ORDER AMENDING  
ORDER

65

For the purpose of correcting an unintentional error in the order made and entered herein on February 21, 1939, awarding an allowance to Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, attorneys for the Debtor herein, it is hereby

66

ORDERED that the order made and entered herein on February 21, 1939, awarding an allowance to Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, attorneys for the Debtor herein, be and the same is hereby amended by striking out the following words contained in the third ordering part of said order, to wit: "Nine Thousand Dollars less the payment to Edward Endelman of \$1,500 and the payment to Empire Trust Company of \$1,101.96, out of the fund in their hands for the payment of allowances and expenses in the reorganization of the Seneca Issue of Mortgage Participation Certificates of the Debtor", and substituting in lieu thereof the following: "Nine Thousand Dollars, to the extent that said sum is available out of the fund in their hands for the payment of allowances and expenses in the reorganization of the Seneca Issue of Mortgage Participation Certificates of the Debtor, after first deducting from such fund the payment to Edward Endelman of \$1,500 and the payment to Empire Trust Company of \$1,101.96".

Dated: Brooklyn, N. Y., February 24, 1939.

ROBERT A. INCH

U. S. D. J., E. D. N. Y.

**Order awarding allowances to Independent Committee,  
et al.**

67

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, on the 21st day of February, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

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[CAPTION]

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This Court by orders dated March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938 and June 6, 1938, and eighteen orders dated January 18, 1938, having referred to Hon. James G. Moore as Special Master the consideration of the persons or corporations to whom allowances for services or expenses should be made herein; and GEORGE M. JAFFIN and LEONARD KLABER, having petitioned the Court for compensation for their services and disbursements in this proceeding; and the INDEPENDENT PRUDENCE BONDHOLDERS PROTECTIVE COMMITTEE, having petitioned the Court for compensation for its services in this proceeding; and said Special Master having filed with the Court his report dated November 30th, 1938, and the Prudence-Bonds Corporation (new corporation) having filed exceptions and objections to said report, and the RECONSTRUCTION FINANCE CORPORATION having also filed objections to said report, and an application for the confirmation of the report of the Special Master having duly come on to be heard,

68

69

Now, after hearing GEORGE M. JAFFIN and LEONARD KLABER, on behalf of themselves and as attorneys for INDEPENDENT PRUDENCE BONDHOLDERS PROTECTIVE COMMITTEE, in support of the confirmation of said Special Master's report; and after hearing CHARLES M. McCARTY, attorney for Pru-

70 DENCE-BONDS CORPORATION, and JAMES F. DEALY, attorney for RECONSTRUCTION FINANCE CORPORATION, in opposition thereto, it is

ORDERED, that the report of Hon. James G. Moore, as Special Master herein, in respect to the application of GEORGE M. JAFFIN and LEONARD KLABER and in respect to the application of the INDEPENDENT PRUDENCE BONDHOLDERS PROTECTIVE COMMITTEE for compensation for services and expenses in this proceeding, and all findings of fact and conclusions of law therein in said report contained, be, and the same is in all respects confirmed, approved and adopted by this Court, and it is further

71 ORDERED, that the PRUDENCE-BONDS CORPORATION (new corporation) shall, 41 days after entry of this order, make the following payments out of the fund provided:

To GEORGE M. JAFFIN and LEONARD KLABER (for services)	— \$25,000.00
To GEORGE M. JAFFIN and LEONARD KLABER (for disbursements)	— 1,558.78
To the following members of the INDEPENDENT PRUDENCE BONDHOLDERS PROTECTIVE COMMITTEE for their services:	
DONALD C. BENNETT	— 500.00
EDWARD J. BROOKINE	— 500.00
ESTATE OF HARRY CAPLIN	— 500.00

72

ROBERT A. INCH  
U. S. D. J.



**Order awarding allowance to Delafield, Marsh, Porter  
& Hope.**

73

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, on the 21 day of February, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

IN THE MATTER

of

PRUDENCE-BONDS CORPORATION,

Debtor.

No. 26545.  
In Proceedings for  
Reorganization  
under Section 77B  
of the Bankruptcy  
Act.

74

This Court by orders dated March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938 and June 6, 1938, and eighteen orders dated January 18, 1938, having referred to Hon. James G. Moore as Special Master the consideration of the persons or corporations to whom allowances for services or expenses should be made herein; and said Special Master having filed with the Court his intermediate report thereon dated November 30, 1938.

Now, upon consideration of said intermediate report and the petition of Delafield, Marsh, Porter & Hope, verified May 16, 1938, two affidavits of George H. Porter, sworn to May 16, 1938, and the schedules annexed thereto, the Answer and Objections of Prudence-Bonds Corporation (the new corporation), verified August 19, 1938, the affidavit of George H. Porter, sworn to September 29, 1938, replying to the said Answer and Objections, the affidavit of Jerome Thralls, sworn to August 20, 1938, the affidavit of John W. McGrath and William T. Cowin, as Trustees of The Prudence Company, Inc., sworn to August 22, 1938, the Exceptions of said

75

76 Prudence-Bonds Corporation verified December 16, 1938, and the Objections of Reconstruction Finance Corporation, verified December 23, 1938, the notice of hearing dated December 12, 1938; and after hearing counsel for the several parties in interest; and upon consideration of the arguments thereof, and upon filing the memorandum of the Court dated February 1, 1939, it is

77 ORDERED, that the intermediate report of said Special Master dated November 30, 1938 be and the same hereby is confirmed in so far as it relates to the allowances of the law firm of Delafield, Marsh, Porter & Hope, and that said firm hereby is allowed the sum of \$20,000 as compensation for such legal services rendered by them as are set forth in Schedule C annexed to the affidavit of George H. Porter sworn to May 16, 1938 and filed herein with the aforesaid petition of Delafield, Marsh, Porter & Hope verified May 16, 1938; hereby reserving determination as to the compensation to which said firm is entitled for legal services other than those set forth in said Schedule C, as well as with respect to the amount of their disbursements allowable herein, and it is further

78 ORDERED, that the amounts herein allowed to the said law firm of Delafield, Marsh, Porter & Hope shall be paid to them forty-one days after the entry of this order by Prudence-Bonds Corporation, the corporation formed in pursuance of the Plan of Reorganization confirmed herein, out of moneys held in its possession for such purpose.

ROBERT A. INCH,  
U. S. D. J.

Order awarding allowances to Tenth Series Committee, *et al.* 79

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[ CAPTION ]

This Court having heretofore by memorandum dated February 1, 1939, confirmed the Intermediate Report of the Special Master dated November 30, 1938, on allowances for services rendered and reimbursement for expenses incurred to Prudence-Bonds Tenth Series Committee and to its attorney, Grosvenor Calkins, and upon all the papers filed and proceedings heretofore had herein, and due deliberation having been had thereon, it is

80

On motion of Grosvenor Calkins, attorney for Prudence-Bonds Tenth Series Committee, and pro se.

ORDERED, ADJUDGED, FOUND, DIRECTED, AND DECREED as follows:

1. That all exceptions and objections heretofore filed to the Intermediate Report of the Special Master dated November 30, 1938, insofar as said exceptions and objections apply to the recommendations of the Special Master in said Intermediate Report contained for allowances to Prudence-Bonds Tenth Series Committee and to Grosvenor Calkins, its attorney, for services rendered and for reimbursement for expenses incurred in this reorganization proceeding be and the same are in all respects overruled, disallowed, and dismissed.

81

2. That the Intermediate Report of the Special Master dated November 30, 1938, be and the same is in all respects approved and confirmed as to allowances therein recommended for Prudence-Bonds Tenth Series Committee and

- 82 Grosvenor Calkins, its attorney, for services rendered and for reimbursement for expenses incurred in this reorganization proceeding.

3. That Prudence-Bonds Corporation (the New Corporation) be and it hereby is authorized and directed to pay to Prudence-Bonds Tenth Series Committee and to Grosvenor Calkins as allowances for services rendered and reimbursement for expenses incurred in this reorganization proceeding the following amounts out of the Fund in its possession applicable thereto pursuant to the order of this Court dated April 5, 1938, forty-one days after the entry of this order:

83	To Prudence-Bonds Tenth Series Committee:		
	For services of Committee	\$1,500.00	
	For services of E. Bailey		
	Frye, its Secretary	1,220.00	
	For reimbursement of expenses		
		976.26	
	Total		\$ 3,696.26
	To Grosvenor Calkins, attorney for Prudence-Bonds Tenth Series Committee, in full for all services		\$10,000.00

- 84 Dated: Brooklyn, N. Y.  
February 21, 1939.

ROBERT A. INCH,  
U. S. D. J. E. D. N. Y.



**Order awarding allowance to General Committee.**

85

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

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**[CAPTION]**

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An application for an allowance as compensation for services rendered in the above-entitled proceeding having been made by the General Committee for Prudence Securities, an intervenor herein, and the said application, together with various other applications for allowances having been duly referred to Hon. James G. Moore, Special Master for consideration, and the said Special Master having filed with the Clerk of this Court an Intermediate Report on November 30, 1938, and a Supplemental Intermediate Report on December 16, 1938, and the matter having been duly brought on for hearing by a notice of motion dated the 1st day of December, 1938, returnable the 9th day of December, 1938, and adjourned to the 16th day of December, 1938,

86

Now, THEREFORE, on reading and filing the aforesaid Intermediate Reports of the Special Master, upon the said application of the General Committee for Prudence Securities, verified the 6th day of May, 1938, together with schedules and exhibits thereto annexed, upon the answering affidavit of Prudence-Bonds Corporation, sworn to the 19th day of August, 1938, by James W. Streeter, President, together with the exhibits thereto annexed, upon the affidavit of Charles M. McCarty, sworn to the 19th day of August, 1938, annexed to the aforesaid answer, upon the answering affidavit of Reconstruction Finance Corporation, sworn to by Jerome Thralls, Esq. on the 20th day of August, 1938, together with the exhibits thereto annexed, upon the answering affidavit of the Trustees of The Prudence Company, Inc., Debtor, sworn to by John M. McGrath and

87

- 88 William T. Cowin, Trustees, on the 22nd day of August, 1938, upon the reply affidavit of John R. Walsh, Esq., sworn to the 13th day of August, 1938, upon the notice of motion dated the 1st day of December, 1938, signed by Percival E. Jackson and Clinton T. Roe, counsel to Prudence Advisory Group, returnable the 9th day of December, 1938, requesting this Court to pass upon the aforesaid Intermediate Reports of the Special Master, upon the objections to the confirmation of the said Intermediate Reports filed by Prudence-Bonds Corporation, dated the 16th day of December, 1938, upon the objections to the confirmation of the said Reports filed by Reconstruction Finance Corporation, dated the 23rd day of December, 1938, upon the affidavit of John R. Walsh, sworn to the 4th day of January, 1939, and after
- 89 hearing John R. Walsh, Esq., Secretary to the General Committee for Prudence Securities, in support of the said application of the said Committee, and Charles M. McCarty, Esq., Attorney for Prudence-Bonds Corporation, and James F. Dealy, Esq., Attorney for Reconstruction Finance Corporation, having appeared in opposition to the confirmation of the said Intermediate Reports of the Special Master in accordance with their objections filed as aforesaid, and due deliberation having been had thereon, and the Court having filed its decision, dated the 1st day of February, 1939; it is hereby

- 90 ORDERED that the said Intermediate Reports of the Special Master insofar as they relate to the General Committee for Prudence Securities be and the same hereby are confirmed; and it is further

ORDERED that the said application of the General Committee for Prudence Securities be and the same hereby is granted and the amounts payable shall be as follows:

To John R. Walsh, Esq., Secretary to the Committee	\$ 10,000
E. John Burns, Esq.	500
Bernard Greenberg	250
Jesse Adler	250

and it is further

ORDERED that the said Committee be and it hereby is granted an allowance for its disbursements in the sum of \$3,714.02; and it is further

ORDERED that the Prudence-Bonds Corporation be and it hereby is authorized and directed to make the aforesaid payments forty-one days after the entry of this order out of the fund provided.

Dated: Brooklyn, New York, February 21, 1939.

ROBERT A. INCH

U. S. D. J., E. D. N. Y.

Order awarding allowance to Jacob A. Freedman.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[ CAPTION ]

An application for an allowance as compensation for services rendered in the above entitled proceeding having been made by Messrs. Cullen & Dykman, Edward Endelman and Jacob A. Freedman, as associate counsel to the General Committee for Prudence Securities, an intervenor herein, and the said application, together with various other applications for allowances having been duly referred to Hon. James G. Moore, Special Master, for consideration, and the said Special Master having filed with the Clerk of this Court an Intermediate Report on November 30, 1938, and a Supplemental Intermediate Report on December 16, 1938, and the matter having been duly brought on for hearing by a notice of motion dated the 1st day of December, 1938, re-

94 turnable the 9th day of December, 1938, and adjourned to the 16th day of December, 1928,

Now, THEREFORE, on reading and filing the aforesaid Intermediate Reports of the Special Master, and upon the joint petition of Cullen & Dykman, Edward Endelman and Jacob A. Freedman, verified the 7th day of May, 1938, together with the affidavits thereto annexed, verified the same day, and duly filed herein, upon the answering affidavit of Prudence Bonds Corporation, sworn to the 19th day of August, 1938, by James W. Streeter, President, together with the exhibits thereto annexed, upon the affidavit of Charles M. McCarty, sworn to the 19th day of August, 1938, annexed to the aforesaid answer, upon the answering affidavit of Reconstruction Finance Corporation, sworn to by Jerome Thralls, Esq., on the 20th day of August, 1938, together with the exhibits thereto annexed, upon the answering affidavit of the Trustees of The Prudence Company, Inc., Debtor, sworn to by John M. McGrath and William T. Cowin, Trustees, on the 22nd day of August, 1938, upon the reply affidavit sworn to by Edward Endelman and Jacob A. Freedman on the 6th day of September, 1938, with due proof of service thereof, upon the affidavit of Ralph W. Crolly, Esq., sworn to the 1st day of December, 1938, duly filed with the Clerk of this Court and in accordance with which Messrs. Cullen & Dykman withdrew from participation in any allowance which may be granted the said associate counsel for the General Committee for Prudence Securities, upon the notice of motion dated the 1st day of December, 1938, signed by Percival E. Jackson and Clinton T. Roe, counsel to Prudence Advisory Group, returnable the 9th day of December, 1938, requesting this Court to pass upon the aforesaid Intermediate Reports of the Special Master, upon the exceptions dated the 9th day of December, 1938, filed with the Clerk of this Court by Edward Endelman and Jacob A. Freedman, with proof of due service thereof, upon the statement and affidavit thereto annexed of John R. Walsh, Esq., Secretary



to the General Committee for Prudence Securities, sworn to the 16th day of December, 1938, and filed with the Clerk of this Court at the hearing of the said motion on December 16, 1938, upon the objections to the confirmation of the said Intermediate Reports filed by Prudence-Bonds Corporation, dated the 16th day of December, 1938, upon the objections to the confirmation to the said Reports filed by Reconstruction Finance Corporation dated the 23rd day of December, 1938, upon the joint affidavit of Edward Endelman and Jacob A. Freedman, sworn to the 27th day of December, 1938, together with the exhibits thereto annexed and proof of due service thereof, and after hearing Edward Endelman and Jacob A. Freedman who appeared on the 16th day of December, 1938, in support of their application, and Charles M. McCarty, Esq., Attorney for Prudence-Bonds Corporation, and James F. Dealy, Esq., Attorney for Reconstruction Finance Corporation, having appeared in opposition to the said Intermediate Reports of the Special Master in accordance with their objections, filed as aforesaid, to the confirmation of the said Reports of the Special Master, and due deliberation having been had hereon, and the Court having filed its decision dated the 1st day of February, 1939; it is hereby

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ORDERED, that the Intermediate Reports of the Special Master insofar as they relate to the joint application for an allowance by Cullen & Dykman, Edward Endelman and Jacob A. Freedman, as associate counsel to the General Committee for Prudence Securities, be and the same is hereby confirmed in all respects, and the said joint application is hereby denied in all respects; and it is further

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ORDERED, that the joint application of Edward Endelman and Jacob A. Freedman, as remaining Associate Counsel to the General Committee for Prudence Securities after the withdrawal, as aforesaid, by Messrs. Cullen & Dykman from any participation in any such joint allowance, be and the same is hereby denied in all respects; and it is further

100 ORDERED, that an allowance to Jacob A. Freedman, Esq., individually, is hereby granted in the sum of \$5000.00, and it is further

ORDERED, that the Prudence-Bonds Corporation be and it hereby is directed to pay the said sum of \$5000.00 to Jacob A. Freedman 41 days after the entry of this order out of the fund provided.

Dated: Brooklyn, New York, February 21, 1939.

ROBERT A. INCH  
U. S. D. J. E. D. N. Y.

101 **Order awarding allowance to Archibald Palmer.**

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House, in the Borough of Brooklyn, City of New York, on the 21st day of February, 1939.

Present: Honorable ROBERT A. INCH, District Judge.

[ CAPTION ]

102 THIS Court, by orders dated March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938, June 6, 1938, and eighteen orders dated January 18, 1938, having referred to James G. Moore, Esq., the consideration of the persons or corporations to whom allowances for services and expenses should be made herein, and said Special Master having filed his report, dated November 30, 1938, with reference to such applications for allowance, and ARCHIBALD PALMER, attorney for the intervening bondholders' committee known as the Mayer Committee, having filed his exceptions, dated De-

cember 9, 1938, to the said report of the Special Master dated November 30, 1938, as affecting the application for allowance of said Archibald Palmer, 103

Now, upon the various orders of reference to the said Special Master, upon the petition for allowance of Archibald Palmer, as attorney for the intervening bondholders' committee known as the Mayer Committee, duly verified the 9th day of May, 1938, the Report submitted by James G. Moore, Esq., dated November 30, 1938, as Special Master, the exceptions to the said Report of said Special Master, as affecting the application for allowance of Archibald Palmer, duly verified the 9th day of December, 1938, and duly filed herein, and after argument on the exceptions to the said report of the Special Master, and upon the memorandum decision of the Court, dated February 1, 1939, it is 104

ORDERED, that the report of James G. Moore, Esq., Special Master herein, dated November 30, 1938, with respect to compensation for services rendered by ARCHIBALD PALMER, as attorney for the intervening bondholders' committee known as the Mayer Committee, be, and the same hereby is, amended so as to provide that ARCHIBALD PALMER be allowed the sum of \$1,500.00 for the beneficial services rendered to the estate in reorganization, and the exceptions so filed by said ARCHIBALD PALMER to the aforesaid report in all other respects be, and the same hereby are, overruled; and it is further 105

ORDERED, that the PRUDENCE BONDS CORPORATION, the New Corporation, be, and it hereby is, directed to make the following payment forty-one days after the entry of this order, out of the fund provided, to wit:

Archibald Palmer,  
Attorney for the Intervening  
Bondholders' Committee  
Known as the Mayer Committee\_\_\_\_\_ \$1,500.00

ROBERT A. INCH  
U. S. D. J.

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**Order awarding allowance to MacIntyre, McNally & Downey.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

**[CAPTION]**

107

This Court by orders dated March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938 and June 6, 1938, and eighteen orders dated January 18, 1938, having referred to Hon. James G. Moore as Special Master the consideration of the persons or corporations to whom allowances for services or expenses should be made herein; and said Special Master having filed with the Court his intermediate report thereon dated November 30, 1938,

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Now, upon consideration of said intermediate report and the petition of City Bank Farmers Trust Company verified April 8, 1938, and the affidavit of James B. McNally, Esq., sworn to April 7, 1938 annexed thereto, the Answer and Objections of Prudence-Bonds Corporation (the new corporation), verified August 19, 1938, and the affidavit of Jerome Thralls sworn to August 20, 1938, and the affidavit of John W. McGrath and William T. Cowin as Trustees of The Prudence Company, Inc., verified August 22, 1938, and the Exceptions of said Prudence-Bonds Corporation verified December 16, 1938, and the Objections of Reconstruction Finance Corporation verified December 23, 1938, and the notice of hearing dated December 12, 1938; and after hearing counsel for those several parties; and upon consideration of the arguments thereof, and on filing the memorandum of the Court dated February 1, 1939, it is

**ORDERED**, that the intermediate report of said Special Master dated November 30, 1938 be and the same hereby is



confirmed in so far as the same recommends an allowance of \$680. as compensation for services to Messrs. MacIntyre, McNally & Downey, and \$393.67 for their disbursements, and it is further 109

ORDERED, that the compensation of Messrs. MacIntyre, McNally & Downey for legal services rendered by them be and the same hereby is fixed in the sum of \$680, and that in addition thereto they shall be allowed to them the sum of \$393.67 as their disbursements, and it is further

ORDERED, that the amounts herein allowed to the said MacIntyre, McNally & Downey for their compensation and disbursements shall be paid to them by Prudence-Bonds Corporation, the corporation formed in pursuance of the Plan of Reorganization confirmed herein, out of moneys, forty-one days after the entry of this order and held in its possession for such purpose. 110

Dated: New York, N. Y.  
February 21, 1939.

ROBERT A. INCH,  
U. S. D. J.

**Order denying allowance to Edward Endelman and Jacob A. Freedman.**

UNITED STATES DISTRICT COURT, 111  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

An application for an allowance as compensation for services rendered in the above-entitled proceeding having been made by Messrs. Cullen & Dykman, Edward Endelman and Jacob A. Freedman, as associate counsel to the General Committee for Prudence Securities, an intervenor

112 herein, and the said application, together with various other applications for allowances having been duly referred to Hon. James G. Moore, Special Master, for consideration, and the said Special Master having filed with the Clerk of this Court an Intermediate Report on November 30, 1938, and a Supplemental Intermediate Report on December 16, 1938, and the matter having been duly brought on for hearing by a notice of motion dated the 1st day of December, 1938, returnable the 9th day of December, 1938, and adjourned to the 16th day of December, 1938.

113 Now, THEREFORE, on reading and filing the said Intermediate Reports of the Special Master, upon the joint petition of Cullen & Dykman, Edward Endelman and Jacob A. Freedman, verified the 7th day of May, 1938, together with and affidavits thereto annexed, verified the same day, and duly filed herein, upon the answering affidavit of Prudence-Bonds Corporation, sworn to the 19th day of August, 1938, by James W. Strecker, President, together with the exhibits thereto annexed, upon the affidavit of Charles M. McCarty, sworn to the 19th day of August, 1938, annexed to the aforesaid answer, upon the answering affidavit of Reconstruction Finance Corporation, sworn to by Jerome Thralls, Esq., on the 20th day of August, 1938, together with the exhibits thereto annexed, upon the answering affidavit of the Trustees of The Prudence Company, Inc., Debtor, sworn to by John M. McGrath and William T. Cowin, Trustees, on the 22nd day of August, 1938, upon the reply affidavit sworn to by Edward Endelman and Jacob A. Freedman on the 6th day of September, 1938, with due proof of service thereof, upon the affidavit of Ralph W. Crolly, Esq., sworn to the 1st day of December, 1938, duly filed with the Clerk of this Court and in accordance with which Messrs. Cullen & Dykman withdrew from participation in any allowance which may be granted the said associate counsel for the General Committee for Prudence Securities, upon the notice of motion dated the 1st day of December, 1938, signed by

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Percival E. Jackson and Clinton T. Roe, counsel to Prudence Advisory Group, returnable the 9th day of December, 1938, requesting this Court to pass upon the aforesaid Intermediate Reports of the Special Master, upon the exceptions dated the 9th day of December, 1938, filed with the Clerk of this Court by Edward Endelman and Jacob A. Freedman, with proof of due service thereof, upon the statement and affidavit thereto annexed of John R. Walsh, Esq., Secretary to the General Committee for Prudence Securities, sworn to the 16th day of December, 1938, and filed with the Clerk of this Court at the hearing of the said motion on December 16, 1938, upon the objections to the confirmation of the said Intermediate Reports filed by Prudence-Bonds Corporation, dated the 16th day of December, 1938, upon the objections to the confirmation to the said Reports filed by Reconstruction Finance Corporation dated the 23rd day of December, 1938, upon the joint affidavit of Edward Endelman and Jacob A. Freedman, sworn to the 27th day of December, 1938, together with the exhibits thereto annexed and proof of due service thereof, and after hearing Edward Endelman and Jacob A. Freedman who appeared on the 16th day of December, 1938, in support of their application, and Charles M. McCarty, Esq., Attorney for Prudence-Bonds Corporation, and James F. Dealy, Esq., Attorney for Reconstruction Finance Corporation, having appeared in opposition to the said Intermediate Reports of the Special Master in accordance with their objections, filed as aforesaid, to the confirmation of the said Reports of the Special Master, and due deliberation having been had herein, and the Court having filed its decision dated the 1st day of February, 1939; it is hereby

ORDERED, that the Intermediate Reports of the Special Master insofar as they relate to the joint application for an allowance by Cullen & Dykman, Edward Endelman and Jacob A. Freedman, as associate counsel to the General Committee for Prudence Securities, be and the same is

118 hereby confirmed in all respects, and the said joint application is hereby denied in all respects; and it is further

ORDERED, that the joint application of Edward Endelman and Jacob A. Freedman, as remaining associate counsel to the General Committee for Prudence Securities after the withdrawal, as aforestated, by Messrs. Cullen & Dykman from any participation in any such joint allowance, be and the same is hereby denied in all respects.

Dated: Brooklyn, New York, February 21, 1939.

ROBERT A. INCH,  
U. S. D. J. E. D. N. Y.

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**General order of Feb. 21, 1939 awarding and denying various applications for allowances.**

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, City and State of New York, on the 21 day of February, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

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[CAPTION]

This Court having heretofore and by orders dated March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938, June 6, 1938 and eighteen (18) separate orders each dated January 18, 1938, having referred the consideration of the persons and corporations to whom allowances for services or expenses should be made under the Plans of Reorganization confirmed in these proceedings and the provisions of Section 77B of the Bankruptcy Act, together with the amounts



thereof, to Special Master James G. Moore, for written report and recommendation to this Court with his opinion thereon, and proceedings with respect to such matter having been thereafter duly had before the said Special Master and the said Special Master having filed herein an Intermediate Report dated November 30, 1938, passing upon the applications for allowances of all of the applicants herein except the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and their respective counsel appearing herein, and by a notice dated November 30, 1938, having given notice of the filing of said Report, and Prudence Securities Advisory Group, one of the intervenors herein, by notice of motion dated December 1, 1938, having moved herein for an order passing upon said Intermediate Report, taking such action thereon as this Court might deem advisable and granting such other and further relief as to this Court might seem just and proper, and said motion having duly come on to be heard before me on the 9th day of December, 1938, and having been duly adjourned by me to the 16th day of December, 1938, and said Special Master having filed herein an Intermediate Report dated December 12, 1938, passing upon the applications for allowances of the said eleven (11) Corporate Trustees and their respective counsel appearing herein, and by a notice dated December 12, 1938, having given notice of the filing of said Report and notice that said Report would be handed up to me on the 16th day of December, 1938, for consideration in conjunction with said Special Master's Report dated November 30, 1938, then and there before me for consideration and the consideration of said two (2) Reports having duly come on to be heard before me on the 16th day of December, 1938;

Now, upon reading and filing the said Intermediate Report of Special Master James G. Moore dated November 30, 1938 and proof of due service of said notice of filing dated November 30, 1938, the notice of motion of Prudence Secur-

- ities Advisory Group, intervenor, dated December 1, 1938, with proof of due service thereof, the said Intermediate Report of said Special Master dated December 12, 1938, with proof of due service of said notice of filing and hearing dated December 12, 1938, and the applications for allowances and the objections and exceptions thereto and the Exhibits and papers and the record of the proceedings had before said Special Master in respect of said Reports, including the papers and exhibits set forth in "Appendix A" of each of said Reports; and upon reading and filing the exceptions of Harry H. Oshrin, dated December 8, 1938; the affidavit of George T. Manuel, verified December 8, 1938; the exceptions of Leon London, dated December 9, 1938; the exceptions of Samuel Silbiger, dated December 9, 1938; the exceptions of Edward Endelman and Jacob A. Freedman, dated December 9, 1938; the affidavits of Edward Endelman, verified December 2, 1938 and December 3, 1938, respectively; the joint affidavit of Edward Endelman and Jacob A. Freedman, verified December 1, 1938; the affidavit of Ralph W. Crolly, verified December 1, 1938; the joint affidavit of Edward Endelman and Jacob A. Freedman, verified December 27, 1938; the letter to the Court from General Committee for Prudence Securities, dated December 18, 1938; the affidavit of John R. Walsh, verified January 4, 1939; the letter to the Court from John R. Walsh, dated January 4, 1939; the exceptions of Archibald Palmer, verified December 9, 1938; the exceptions of Archibald Palmer, verified December 9, 1938; the exceptions of Archibald Palmer, verified December 15, 1938; the affidavit of Alfred E. Herz, verified December 6, 1938; the affidavit of Alfred E. Herz, verified December 13, 1938; the objections of Frueauff, Burns, O'Brien & Ruch and Powell & Ruch, verified December 9, 1938; the affidavit of Clinton J. Ruch, verified December 15, 1938; the objections of the Trustees of New York Investors, Inc., verified December 9, 1938; the affidavit of Charles H. Kelby, verified December 13, 1938;

the objections of Reconstruction Finance Corporation, verified December 23, 1938; the exceptions of The Marine Midland Trust Company of New York, as Trustee of Prudence-Bonds, Sixteenth Series, dated December 23, 1938; the exceptions of Sullivan & Cromwell, dated December 23, 1938; the exceptions of Rabenold, Scribner & Miller and Mark Hyman, dated December 27, 1938; the affidavit of Louis G. Bernstein, verified December 30, 1938; the exceptions of Charles L. Kingsley, verified December 27, 1938; the exceptions of Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, dated December 27, 1938; the exceptions of Cullen & Dykman, dated December 27, 1938; the affidavit of David Barnett, verified December 27, 1938; the affidavit of David Barnett, verified December 30, 1938; the affidavit of A. Frederick Kenthen, verified December 27, 1938; the affidavit of Charles G. Bond, verified December 23, 1938; the exceptions of Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, its attorneys, dated December 7, 1938; the affidavit of Nicholas R. Jones, verified December 7, 1938; the exceptions of President & Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, and Carter, Ledyard & Milburn, its attorneys, dated December 27, 1938; the exceptions of Alfred T. Davison, dated December 15, 1938; the affidavit of Alfred T. Davison, verified December 27, 1938; the affidavit of Alfred T. Davison, verified December 28, 1938; the answer of Prudence-Bonds, Tenth Series Committee and Grosvenor Calkins, its attorney, verified December 29, 1938; the objections and exceptions of Prudence-Bonds Corporation (New Corporation), verified December 16, 1938, as amended by the affidavit of Thomas W. Streeter, verified December 30, 1938; the exceptions and objections of Alexander E. Klupt, verified December 27, 1938; the exceptions of Guaranty Trust Company of New York, as Trustee of Prudence-Bonds, Series A, filed December 27, 1938; the letter to the Court from George M. Jaffin & Leonard Klaber, dated December 30, 1938; the exceptions of The

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- 130 Chase National Bank of the City of New York, as Trustee of Prudence-Bonds, Fourteenth Series, and of its attorneys, Milbank, Tweed & Hope, dated December 27, 1938; the exceptions of City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh & Seventeenth Series, dated December 27, 1938; the exceptions and objections of Delafield, Marsh, Porter & Hope, dated December 27, 1938; the exceptions of McKercher & Link, filed December 8, 1938; the affidavit of George Link, Jr., verified December 23, 1938; the exceptions of John M. McGrath and William T. Cowin, as Trustees of The Prudence Company, Inc., Debtor, dated December 16, 1938; and the
- 131 letter to Prudence-Bonds Corporation (New Corporation) from Peabody, Arnold, Batchelder & Luther, attorneys for State Street Trust Company, as Trustee of Prudence-Bonds, Tenth Series, dated December 28, 1938, and after hearing the attorneys for various parties in interest in support of and in opposition to the confirmation of said Reports of Special Master James G. Moore, and in support of and in opposition to the various exceptions and objections filed in respect of said Reports, and upon the above mentioned orders of this Court and due deliberation having been had thereon, and upon filing the opinion of this Court, dated February 1, 1939, and this Court having therein determined in respect of all applications for allowances filed herein, that it deems it practicable to apply the provisions
- 132 of Chapter X, Article 13, of the Bankruptcy Act as amended by the Chandler Act (11 U. S. C. A. Section 341 et seq) and having directed, that all orders for allowances for compensation and expenses pursuant to the said opinion of February 1, 1939, must be settled on due notice and presented for signature on or before February 17, 1939, and proposed orders having accordingly been submitted and notice for settlement by and on behalf of the Trustees of the Debtor and Geo. C. Wildermuth, Esq., their attorney; Frueauff,



Burns, O'Brien & Ruch, Esqs., the attorneys for the Debtor; 133  
 Archibald Paimer, Esq., attorney for Mayer Committee;  
 Samuel Silbiger, Esq., attorney for George E. Eddy; Dela-  
 field, Marsh, Porter & Hope, Esqs., attorneys for City Bank  
 Farmers Trust Company, as Trustee of Prudence-Bonds,  
 Series AA, Third, Fourth, Seventh and Seventeenth Series;  
 MacIntyre, McNally & Downey, Esqs., Special Counsel for  
 said City Bank Farmers Trust Company, as Trustee of  
 Prudence-Bonds, Third and Seventh Series; Tenth Series  
 Committee and Grosvenor Calkins, Esq., its attorney; Six-  
 teenth Series Committee and Rogers & Whitaker and Lat-  
 son & Tamblin, Esqs., its attorneys; Metz Committee and  
 Rabenold, Scribner & Miller and Mark Hyman, Esqs., its  
 attorneys; Independent Prudence Bondholders Protective 134  
 Committee and George M. Jaffin & Leonard Klaber, Esqs.,  
 its attorneys; General Committee for Prudence Securities;  
 Jacob A. Freedman, Esq., attorney for General Committee  
 for Prudence Securities; Cullen • Dykman, Edward Endel-  
 man and Jacob A. Freedman, Esqs., attorneys for General  
 Committee for Prudence Securities; Edward Endelman,  
 Esq., attorney for Committee of Preferred Stockholders of  
 The Prudence Company, Inc.; Prudence Securities Advis-  
 ory Group and Percival E. Jackson and Clinton T. Roe,  
 Esqs., its attorneys; and said fifteen (15) orders having  
 been signed by this Court and no other proposed orders  
 having been submitted and noticed for settlement pursuant  
 to the direction of this Court, by the other applicants for 135  
 allowances covered by said Reports of the Special Master,  
 it is

ORDERED, ADJUDGED, DIRECTED, FOUND AND DECREED, as fol-  
 lows:

1. That the said Reports of Special Master James G. Moore, dated November 30, 1938 and December 12, 1938, and filed herein be and they hereby are, in all respects approved and confirmed and that the findings of fact and con-

136 clusions of law contained in said Reports, be and the same hereby are, made the findings of fact and conclusions of law of this Court, except as otherwise modified by this order and by the other said orders signed in respect of said Reports.

2. That all objections and exceptions to said Reports be and they hereby are, in all respects overruled and dismissed, except insofar as such objections and exceptions are sustained by this order and by the other said orders signed in respect of said Reports.

137 3. That the sum of \$2,500.00 be and hereby is fixed, awarded and granted as fair and reasonable compensation to Prudence Bondholders Protective Association, as and for all services rendered and all disbursements necessarily incurred by it in these proceedings, and that Prudence Bonds Corporation, the New Corporation, be and it hereby is, authorized and directed to pay to said Prudence Bondholders Protective Association, 41 days after the entry of this order, the said sum of \$2,500.00, out of the funds in its possession, pursuant to the order of this Court dated April 5, 1938, and made and entered in these proceedings.

138 4. That the sum of \$5,000.00, be and hereby is fixed, awarded and granted as fair and reasonable compensation to Messrs. Kadel, Sheils and Weiss, attorneys for Prudence Bondholders Protective Association, as and for all services rendered by them in these proceedings and that Prudence Bonds Corporation, the New Corporation, be and it hereby is, authorized and directed to pay to said Messrs. Kadel, Sheils & Weiss, 41 days after the entry of this order, the said sum of \$5,000.00, out of the funds in its possession, pursuant to the order of this Court, dated April 5, 1938, and made and entered in these proceedings.

5. That the sum of \$500.00, be and hereby is fixed, awarded and granted as fair and reasonable compensation

for services rendered and the sum of \$40.12 for disbursements necessarily incurred, by Messrs. Cummings & Lockwood, special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth Series, and that Prudence-Bonds Corporation, the New Corporation, be and it hereby is authorized and directed to pay to said Messrs. Cummings & Lockwood, 41 days after the entry of this order, the said sum of \$540.12, out of the funds in its possession, pursuant to the order of this Court dated April 5, 1938, and made and entered in these proceedings. 139

6. That the sum of \$1,101.96, be and hereby is fixed, awarded and granted as fair and reasonable compensation to Empire Trust Company, as Depositary of the Debtor's issue of mortgage participation certificates known as the Seneca Issue, as and for all services rendered and disbursements necessarily incurred by it in such capacity in these proceedings, and that Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor herein, be and they hereby are authorized and directed to pay to said Empire Trust Company, 41 days after the entry of this order, the said sum of \$1,101.96, out of the fund in their possession, set aside and segregated as a fund to pay reorganization expenses applicable to the said Seneca Issue of mortgage participation certificates. 140

7. That the application of Alfred T. Davison, for an allowance herein, be and hereby is in all respects denied, except insofar as such application has been granted and the Report of Special Master Moore dated November 30, 1938, modified, by the order made and entered in these proceedings, dated December 23, 1938, authorizing and directing Prudence-Bonds Corporation, the New Corporation to pay to said Alfred T. Davison, the sum of \$714.50. 141

8. That the application of John M. McGrath and William T. Cowin, as Trustees of The Prudence Company, Inc.,

- 142 Debtor, be and the same hereby is in all respects denied; that the said Trustees of The Prudence Company, Inc., and each and all of the Corporate Trustees of the eighteen (18) Series of First Mortgage-Collateral Bonds, issued by the Debtor, and each of them, be and they hereby are, authorized and directed to turn over and deliver to Prudence-Bonds Corporation, the New Corporation, 41 days after the entry of this order, any and all funds in their possession or under their control and reserved or segregated on account of servicing fees or expenses claimed by said the Trustees of The Prudence Company, Inc. by their said application for an allowance herein, and that Prudence-Bonds Corporation, the New Corporation upon receipt of such moneys, be and it hereby is authorized and directed to deposit such funds to the credit of the income accounts of the appropriate respective Trust Funds securing the eighteen (18) Series of Bonds issued by the Debtor.
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9. That the applications of John M. A. Blair, Esq.; Lawrence R. Condon, Esq.; Alfred H. Cumbers, Esq.; Leon B. Ginsburg, Esq.; Herman Gottlieb, Esq.; Alfred E. Herz, Esq.; Hoffman & Hoffman, Esqs.; Charles L. Kingsley, Esq.; Alexander E. Klupt, Esq.; Leon London, Esq.; McKercher & Link, Esq.; Harry H. Oshrin, Esq. and Harold L. Winston, Esq., for allowances herein, be and they and each of them hereby are, in all respects denied and that the application of Edward Endelman, Esq., for an allowance as attorney for Protective Committee of Preferred Stockholders of The Prudence Company, Inc., be and hereby is in all respects denied, except insofar as said application has been granted by a separate order entered herein, re-
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lating solely to services of said applicant in connection with the Debtor's Seneca Issue of Mortgage Certificates.

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10. That the application filed herein by the Trustees of New York Investors, Inc., for an allowance for disbursements and the applications filed herein by the eleven (11) respective Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, except insofar as the application of Messrs. Delafield, Marsh, Porter & Hope, attorneys for City Bank Farmers Trust Company, as Trustee of Prudence Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, has been in part granted by an order made and entered herein, and the objections and exceptions filed herein in respect of such applications and the Reports of the Special Master pertaining thereto, be and they hereby are, held in abeyance for future consideration and determination in accordance with the opinion of this Court dated February 1, 1939.

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11. That this Court reserves and retains jurisdiction to give such further authorizations and directions as may be necessary to carry out this order and to make effective, consummate and carry out the Amended Plans of Reorganization approved and confirmed herein, and generally to determine any and all matters pertaining to these proceedings or to the Plans of Reorganization and not determined heretofore or by this order.

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ROBERT A. INCH

U. S. D. J., E. D. N. Y.

148 **Order denying motion of Prudence-Bonds Corporation for Reargument.**

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, on the 21 day of February, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

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[CAPTION]

150

A motion by an order to show cause signed by the Hon. Robert A. Inch and dated February 6, 1939, upon the petition of Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in these proceedings, duly verified the 6th day of February, 1939, and upon all the papers filed and proceedings heretofore had herein, having duly come on to be heard before me on the 10th day of February, 1939, for an order herein, granting leave to said petitioner, Prudence-Bonds Corporation, for the reasons set forth in said petition, to reargue the application made herein for the consideration of the Reports of Special Master James G. Moore, on allowances, dated November 30, 1938 and December 12, 1938, and for such other and further relief as may be proper in the premises;

Now, upon reading and filing the said order to show cause, with proof of due service thereof, upon the necessary

parties to this proceeding as required by said order to show cause, and upon reading and filing the said petition of Prudence-Bonds Corporation, the New Corporation, duly verified the 6th day of February, 1939, and the petition of Alfred E. Herz, verified the 9th day of February, 1939, in support of said motion and no papers being filed in opposition thereto, and after hearing Charles M. McCarty, attorney for Prudence-Bonds Corporation, the New Corporation; Larkin, Rathbone & Perry, Esqs. (Henry E. Kelley, Esq., of counsel) attorneys for Central Hanover Bank and Trust Company, as Trustee of Prudence-Bonds, Sixth and Eighteenth Series; Carter, Ledyard & Milburn, Esqs. (J. M. Richardson Lyeth, Esq., of counsel) attorneys for President & Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series; and Alfred E. Herz, Esq., attorney for Young Petofi Sick & Benevolent Society, a bondholder, all in support of said motion and no one having appeared in opposition thereto, and upon the Reports of Special Master James G. Moore, dated November 30, 1938 and December 12, 1938 and the exhibits and papers and the record of the proceedings had before said Special Master, in respect of said Reports and upon all the objections and exceptions and papers heretofore filed herein in connection with the application made herein for the consideration of said Reports and due deliberation having been had thereon and upon filing the opinion of the Court, it is

**ORDERED**, that the said motion be and the same hereby is denied.

ROBERT A. INCH,  
U. S. D. J. E. D. N. Y.

- 154 Order to show cause of District Court on motion by R. F. C. for leave to appeal.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

Upon the annexed petition of RECONSTRUCTION FINANCE CORPORATION, duly verified the 10th day of March, 1939, and this court being fully advised, it is

- 155 ORDERED, that the Debtor, the Trustees of the Debtor, and all intervenors and applicants for allowances in the above entitled proceedings, or their respective attorneys appearing herein, show cause before the undersigned, at the Courthouse, Post-Office Building, Washington Street, Borough of Brooklyn, City and State of New York, on the 14 day of March, 1938, at two o'clock in the afternoon of that day or as soon thereafter as counsel can be heard, why an order should not be made and entered herein granting leave to Reconstruction Finance Corporation, an intervenor herein, to take and prosecute appeals to the United States Circuit Court of Appeals for the Second Circuit, from any or all of the following orders of this Court in these proceedings:

- 156 (1) Order, dated February 14, 1939, whereby among other things, allowances in the aggregate sum of \$65,720.05 were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements.
- (2) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07 were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner



& Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

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(3) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96 were granted to Bondholders' Protective Committee, for Prudence Bonds, Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tamblin, Esqs., its attorneys herein, for services and disbursements.

(4) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

(5) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19 was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

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(6) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78 were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

(7) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00 was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence Bonds, Series AA, Third, Fourth, Seventh, and Seventeenth Series, on account for services.

159

(8) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02 was granted to General Committee for Prudence Securities, for services and disbursements.

(9) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26 were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

160

(10) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee of Prudence Securities, for services.

(11) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1500.00 was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services.

(12) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1073.67 was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

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(13) Order, dated February 21, 1939, whereby, among other things, (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7500.00 were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12 was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination.

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and why said Reconstruction Finance Corporation should not be granted such other and further relief as may be just and proper in the premises; AND sufficient cause appearing therefor, it is further

ORDERED, that service of this order and the petition upon which it is granted, by mailing copies thereof to the Debtor,

the Trustees of the Debtor and all intervenors and applicants for allowances in these proceedings, or to their respective attorneys or solicitors appearing herein, on this 10th day of March, 1939, at or before 11:50 P. M., shall be deemed good and sufficient service.

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Dated, New York, N. Y.

March 10, 1939

ROBERT A. INCH  
U. S. D. J.

**Petition of R. F. C. for leave to appeal.**

**UNITED STATES DISTRICT COURT,**

**EASTERN DISTRICT OF NEW YORK.**

164

[CAPTION]

**PETITION OF RECONSTRUCTION FINANCE CORPORATION AN  
INTERVENOR HEREIN, FOR LEAVE TO APPEAL**

*To the Honorable Judges of the District Court of the United  
States for the Eastern District of New York:*

The petition of RECONSTRUCTION FINANCE CORPORATION respectfully shows as follows:

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(1) The petitioner is a corporation duly organized and existing under and pursuant to an Act of Congress approved January 22, 1932, all of the stock of which is beneficially owned by the United States. It owns the entire outstanding stock of the Debtor herein, and has been duly authorized to intervene generally herein.

(2) Heretofore there was duly referred, for written report and recommendation, to James G. Moore, Esq., Special Master, by orders made and filed herein, the matter of



166 the persons and corporations to whom allowanees for services or expenses should be made under the plans of reorganization confirmed herein and the provisions of 77B of the Bankruptcy Act. Pursuant to such orders numerous applications for allowances for services and disbursements were filed with said Special Master and petitioner thereafter filed an answering affidavit and objections in opposition to the granting of substantially all of said applications for allowances, including those to whom allowances have since been granted as hereinafter mentioned.

167 (3) Thereupon and after due consideration of the applications and answers and other proofs filed in opposition to such applications, Special Master Moore filed herein an intermediate report dated November 30, 1938 wherein he recommended that allowances for services and disbursements be granted in the aggregate sum of \$462,014.08 to various applicants other than corporate trustees and their counsel and recommended that other applications be denied *in toto*. In such report, he further reserved for future determination the applications for allowances filed by the eleven corporate trustees of the outstanding eighteen series of the Debtor's bonds and their counsel. Subsequently, however, and by an additional report dated December 12, 1938 and duly filed herein, Special Master Moore recommended that allowances, for services and disbursements in the aggregate sum of \$626,862.41 be granted to such eleven corporate trustees and their counsel.

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(4) Both of said reports came on for consideration by this court at a hearing duly held on December 16, 1938, and petitioner by its counsel appeared in opposition to the confirmation or approval thereof.

(5) Thereafter and under date of February 1, 1939, Judge Inch, the District Judge, before whom these proceedings are pending and before whom the aforesaid hearing on the Special Master's abovementioned reports were held, filed an opinion approving with some modifications the Spe-



cial Master's Report of November 30, 1938; by said opinion he approved the Special Master's recommended allowances except that he increased the allowance to Samuel Silbiger, Esq., an attorney, from \$1,000 recommended by the Special Master, to \$5,000, and awarded allowances to certain other applicants whose petitions had been rejected by the Special Master. He also reserved for future consideration the application of the Trustees of New York Investors for reimbursement of \$50,954.64 expended by them under order of Judge Inch to defray various reorganization expenses. By his decision, Judge Inch also reserved for future determination, the allowances recommended by the Special Master in his report dated December 12, 1938, in the aggregate sum of \$626,862.41 for the above referred to eleven corporate trustees and counsel. Judge Inch also ruled that each party to whom an allowance had been awarded or denied, might submit a separate order covering the particular application involved but that there might be included in a single order such applications to to which the applicants involved did not submit separate orders by February 17, 1939. 169 170

(6) Separate orders were made and entered to carry out the aforesaid decision of Judge Inch, as follows:

(1) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05 were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements. 171

(2) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07 were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

(3) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00 were granted to Charles H. Kelby and

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Clifford S. Kelsey, as Trustee of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services.

(4) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96 were granted to Bondholders' Protective Committee, for Prudence-Bonds Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tamblin, Esqs., its attorneys herein, for services and disbursements.

(5) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

173

(6) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19 was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

(7) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78 were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

174

(8) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00 was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services.

(9) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02 was granted to General Committee for Prudence Securities, for services and disbursements.

(10) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26 were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

(11) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee of Prudence Securities, for services.

175

(12) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1500.00 was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services.

(13) Order, dated February 21, 1939, whereby among other things, an allowance in the sum of \$1073.67 was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

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(14) Order, dated February 21, 1939, whereby, among other things, (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7500.00 were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12 was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination.

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(7) Petitioner, feeling itself aggrieved by the aforesaid orders intends to appeal from each and every one of them. It is advised by counsel that there is some question whether an appeal by this petitioner from the orders granting and awarding allowances to others than the Trustees of the Debtor and their counsel requires the leave of this court.



178 Petitioner is advised that in a similar case, *In re New York Investors, Inc.*, 79 F. (2) 179, 182, the Circuit Court of Appeals for the Second Circuit, did not require that petitioner, who was an intervenor and creditor of the debtor involved in that case, obtain leave from the District Court to prosecute an appeal from an allowance to an applicant other than trustee of the debtor therein or their counsel. Petitioner is advised in that case the court said, with respect to its right to appeal without leave of this court, at p. 182;

“Where a court has thought best to allow a creditor to intervene and to be heard on certain specified matters, it does not seem unreasonable to grant him the right to appeal.”

179 In view of the fact that there may be doubt on the question whether or not leave of this court is required to permit petitioner to take and prosecute appeals from such of the aforesaid orders as award allowances to others than the trustees of the debtor and their counsel, petitioner is making this application to this court for an order granting it leave to take and prosecute such appeals.

180 (8) There are many reasons in petitioner's opinion why this application should be granted. Although applications for allowances for services and reimbursement of expenses in the grand total of \$2,885,574.54 were filed with the Special Master, the Trustees of the Debtor and their counsel took no action whatsoever to oppose the granting thereof. Petitioner, through its counsel, and the Prudence-Bonds Corporation (New Corporation), through its counsel, and the Trustees of the Prudence Company, Inc., through their counsel, alone filed affidavits or answers in opposition to the granting of said applications. Petitioner, through its special Representative and counsel, has spent a very large amount of time in analyzing the applications for allowances filed and in preparing the affidavit of Jerome Thralls, duly sworn to August 20, 1938, which was duly filed on behalf of petitioner in opposition to said applications. As a result



of the opposition by the objectors, including petitioner, the amount recommended for allowance by the Special Master was in the reduced sum of \$1,088,876.49 as against \$2,885,574.54 applied for. Nevertheless, petitioner feels that the amounts awarded by the orders above referred to and the amounts recommended to the corporate trustees and their counsel, on which decision has been reserved, are unreasonable and excessive in the circumstances and should be further drastically reduced.

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(9) In stating above that the Trustees of the Debtor took no action on these allowances, no reflection is intended to be made on them because petitioner was informed at the time, that they took no action for the reason that they had already delivered instruments of transfer to the debtor's property to the New Corporation in accordance with the plan of reorganization confirmed herein and for the further reason that petitioner and the New Corporation had undertaken to analyze the applications and oppose any which seemed unjustified by the facts. Thus, by taking no action in opposing these allowances the Trustees of the Debtor avoided much duplication of effort.

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(10) The Trustees of the Debtor likewise took no action whatsoever on the hearing before the Court at which the aforesaid reports of the Special Master were considered. Petitioner and the Prudence-Bonds Corporation (New Corporation) appeared and filed exceptions and objections to the said reports and opposed confirmation thereof. Among the grounds of petitioner's objections to the approval of the said reports were that the Special Master erred in recommending allowances in the aggregate sum of \$1,088,876.49 for the reason that said sum is unreasonable and grossly excessive for the services and expenses of the applicants to whom said allowances were recommended, and that said sum cannot be justified by the benefits which bondholders had received or may expect to receive as the result of the reorganization herein. Petitioner further objected that if

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184 the allowances so recommended were approved, the total cost to bondholders of this reorganization would approximate \$1,500,000 for the reason that in addition to the amounts so recommended in said reports, \$350,651.79 had already been expended in this reorganization. The said amount included the following:

	Allowances to Special Master James G. Moore _____	\$73,100.00
	Interim allowances to 77B Trustees of the Debtor _____	40,000.00
	Interim allowance to attorney for 77B Trustees of the Debtor _____	50,000.00
185	Reorganization expenses paid by 77B Trustees of the Debtor out of Special Fund turned over to them pursuant to court orders _____	41,765.69
	New Corporation—on account of organization expenses _____	50,000.00
	Allowance to Special Master MacDonald _____	1,500.00
	Allowances to individual attorneys or firms for services in connection with specific items of collateral _____	37,659.94
186	Fees and expenses paid to corporate trustees or their attorneys out of the Trust Funds or from sources other than the Trust Funds, since inception of these proceedings _____	56,626.16
	Total _____	\$350,651.79

Petitioner also objected to the confirmation of said reports upon the grounds that no provision had yet been made for final allowance to Special Master Moore or for the payment of additional necessary initial expenses of the New Corporation, and that as shown by the facts set forth in its objections filed with the Special Master an over-all cost of not

more than  $1\frac{3}{4}$  to 2% of the bonds reorganized could be justified and that in order to restrict the costs and expenses of this reorganization to an amount consistent with such charges in comparable reorganizations the total allowances to all applicants then before the court should not exceed \$750,000. 187

(11) Petitioner believes that in addition to committing grievous error in awarding the amounts in the aforesaid fourteen (14) orders from which it desires to appeal, this Court further erred in finally fixing and directing the payment of any of such general allowances herein while at the same time reserving consideration of other applications in substantial amounts. Petitioner believes that before any allowances for general services in these proceedings can be made, the total cost of the reorganization should be fixed and is advised that this position is supported by the recent decision of the Circuit Court of Appeals for the Seventh Circuit in the case of *In re Irving Austin Building Corp.*, decided November 3, 1938 and reported in C. C. H. Bankruptcy Service, Section 51426. The total allowances recommended by the Special Master when added to the \$350,651.79 already granted in prior allowances, amount to almost \$1,500,000 as the cost of this reorganization. While the court has reserved decision on a large number of allowances, those already awarded are so excessive in amount as to indicate clearly that the total cost of this reorganization will be largely in excess of \$1,500,000 and unless the allowances which have already been awarded are drastically reduced in amount, it will be impossible for this reorganization to be consummated at a total cost which can be justified by the benefits which bondholders have received or may expect to receive as a result of the reorganization. Furthermore, unless such allowances are drastically reduced, the total cost of this reorganization will be entirely beyond the 188 189



190 ability of the estate to pay, in addition to being entirely disproportionate to the benefits conferred.

(12) As indicated above, unless the amounts already awarded by the orders heretofore referred to are drastically reduced, the total cost of this reorganization will exceed \$1,500,000 and will be more than  $2\frac{3}{4}\%$  of the original face amount of bonds outstanding and more than  $7\frac{1}{2}\%$  of the market value, at the time the allowance applications were heard, of the bonds that have been reorganized in this proceeding. Such a cost would amount to almost a year's average income on the bonds reorganized herein, according to the estimates for 1936 given in the Special Master's report on file herein, on 13 individual series. These estimates of income range from a low of 1.051% for the 4th Series to a high of 4.813% for the 9th Series, or an average of 2.974%.\* In addition, no principal payments have been made during this reorganization on seven of the eighteen series of bonds of the principal amount of \$23,534,500. In seven other series principal payments varied from \$20 to \$1 per \$1,000 bond. In only 4 series did the total of the principal payments exceed 10% and at the date of the confirmation of the plan herein, interest remained unpaid on the 10th Series from November 1, 1932; on the 4th Series from 1933; on four series from 1934; and on six series from 1935.

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\*Estimated earnings for 1936 of thirteen series were:

Series	Percent	Series	Percent.
AA	2.117	11th	3.398
3rd	2.467	12th	3.845
4th	1.051	13th	3.199
5th	2.376	14th	3.453
7th	1.613	17th	3.848
8th	3.565	18th	2.563
9th	4.813		



(13) The following chart shows costs of certain comparable reorganizations:

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Reorganization	Size of Issue	Total fees and expenses allowed (1)	Ratio: Allowances to Debts re-organized
N. Y. Title Series F-1 (2)	\$27,899,156.67	\$115,788	.42%
Sherry Netherland (2 issues)	6,790,000.00	117,391	1.73
Ambassador (3) (2 issues and unsecured claims)	15,330,000 (bonds) 547,249.95 (unsecured)	263,814	1.66

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(1) Petitioner is informed that these aggregate figures include, except where otherwise indicated, the fees and expenses of indenture trustees and depositaries throughout the reorganization period.

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(2) The figures quoted do not include servicing fees, nor the fees of the depositary and its counsel.

(3) The figures quoted do not include the bonds on the corporation's Los Angeles property, or allowances made with respect to the reorganization of that property, since the Los Angeles property was the subject of a separate reorganization.

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Reorganization	Size of Issue	Total fees and expenses allowed	Ratio: Allowances to Debts re-organized
Savoy Plaza	9,900,000 (bonds) 3,775,000 (ctfs) 9,799,191.67 (notes)	391,253	1.67%
Prudence Co. Inc.	13,800,000 <sup>(1)</sup>	270,237.67	1.96
1961 Bond Issue.			
United Railways & Electric Co. of Baltimore	11 Bond Issues 64,346,000 <sup>(2)</sup>	591,534.86 <sup>(3)</sup>	.93

197 (14) In view of the foregoing, petitioner deems it highly important in the public interest, as well as in the interest of the bondholders and others interested in the estate of the debtor that the allowances already awarded herein be passed upon and reduced by the Circuit Court of Appeals.

198 (15) Even if the court were to direct the Trustees of the Debtor to take appeals from the orders granting allowances to others than themselves and their counsel, petitioner believes that leave should in any event be granted to it to take and prosecute such appeals for the reason that in view of the fact that the Trustees of the Debtor in no way opposed the making of the allowances as recommended by the Special Master it is highly questionable as to whether or not they could now appeal. Petitioner is advised that the Circuit Court of Appeals in the Second Circuit has on other occasions refused to listen to a plea for reversal from a party

<sup>(1)</sup> The above represents the amount outstanding at the time the bonds went into default.

<sup>(2)</sup> The amount of bonds thus outstanding at the commencement of the proceeding was reduced under the plan of reorganization to \$46,426,000. (See 15 F. Supp. 195, 11 F. Supp. 717). The amount allowed is 1.3% of the reduced amount.

<sup>(3)</sup> This figure includes all interim allowances.

who had not objected below. *In re Prudence-Bonds Corporation*, 79 Fed. (2) 205, cert. den. 296 U. S. 672: *In re Inter-City Trust*, 295 Fed. 495, cert. den. 265 U. S. 589. In addition, the Trustees themselves, as well as their attorney, were applicants here for large allowances and have been awarded substantial amounts. They will be in the position of having to defend their own allowances in the appellate court. 199

(16) If under the law, therefore, the right to appeal from allowances to others than the Trustees or their counsel vests in the first instance in the Trustees of the Debtor, then deponent believes, in the circumstances of this case, the court should relieve the Trustees of the Debtor of any obligation in the premises and should grant the relief herein prayed for. 200

(17) Petitioner has a very substantial interest in this proceeding. The general plan of reorganization provides that stockholders and general creditors shall have the right to purchase shares in the New Corporation for a sum equivalent to the total costs and expenses of this reorganization. At the time these applications were pending, the petitioner was a pledgee with full power under the pledge agreement to protect its interest, of all the debtor's stock. Since that time, through permission granted by this court, the pledged stock was duly sold and petitioner purchased the same at such sale and is now the sole and complete owner thereof. Petitioner also holds an unsecured claim against the Prudence Company, Inc., guarantor of the Debtor's bonds, in the approximate sum of \$11,800,000. The Prudence Company, Inc. holds \$1,910,300 principal amount of subordinate bonds of the Debtor. Its affiliated interests hold additional bonds in the face amount of approximately \$2,700,000, including \$1,300,000 held by Realty Associates, Inc. and Realty Associates Securities Corporation. At the time of the hearing on these allowance applications all of the capital stock of these two corporations was held by petitioner 201

202 as collateral for petitioner's plan to the Prudence Company, Inc. and the guaranty thereof by New York Investors, Inc. Since that time petitioner has acquired full title to the stock of Realty Associates, Inc. but still holds the stock of Realty Associates Securities Corporation as such pledgee.

(18) Petitioner therefore asks that it be granted leave to take and prosecute appeals from all of the aforesaid orders awarding allowances for services and compensation for disbursements to persons or parties other than the Trustees of the Debtor and its counsel, as to which petitioner is advised there is no question of the necessity for obtaining leave of this court.

203 (19) That the reason why an order to show cause is requested herein is that petitioner is advised it is necessary to have this application brought on prior to the expiration of thirty days from the date of the entry of any order from which it is desired to appeal. At least one of said orders, to wit, the order dated February 14, 1939 whereby among other things, allowances in the sum of \$65,720.05 were granted to Prudence Securities Advisory Group and Percival E. Jackson and Clinton T. Roe, Esqs., its counsel, was entered on February 14, 1939 and notice of entry served within five days thereafter on petitioner. Therefore, petitioner desires to have this application heard prior to March 16, 1939, which is the date of the expiration of thirty days from said February 14, 1939.

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(20) No previous application has been made to any court or judge for the relief herein requested.

Wherefore, petitioner respectfully prays that an order in the form submitted herewith be made herein requiring the debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in the above entitled proceeding or their respective attorneys appearing herein, to show cause at a time and place to be fixed in said order, why leave should not be granted to it to appeal from the orders of the



District Court hereinabove referred to, and why petitioner should not be granted such other and further relief as may be just and proper in the premises. 205

Dated: New York, March 10, 1939

RECONSTRUCTION FINANCE CORPORATION

By JEROME THRALLS

Special Representative

JAMES F. DEALY

Attorney for Reconstruction  
Finance Corporation

30 Broad Street,  
Borough of Manhattan,  
New York, N. Y. 206

[Verified March 10, 1939.]

Order to show cause of District Court on motion by Prudence-Bonds Corporation for leave to appeal.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

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Upon the annexed petition of Prudence-Bonds Corporation, the New Corporation formed pursuant to the Plans of Reorganization approved and confirmed in the above entitled proceedings, duly verified the 10th day of March, 1939, and upon all the papers filed and proceedings heretofore had herein,

Let the Debtor and all intervenors, applicants for allowances herein and persons interested in the above entitled proceedings as creditors or stockholders of the Debtor here-

208 in or otherwise, or their respective attorneys appearing herein, show cause before me at a Stated Term of this Court, to be held in Room 312, at the United States Court House, at the corner of Washington and Johnson Streets, in the Borough of Brooklyn, City and State of New York, on the 14 day of March, 1939, at two o'clock in the afternoon of said day, or as soon thereafter as counsel can be heard; why an order should not be made and entered herein, granting leave to your petitioner to appeal from the orders described in paragraph "28" of said petition and for such other and further relief as may be just and proper in the premises.

209 Sufficient cause appearing therefor, LET service of this order and the petition upon which it was granted, by service of copies thereof, personally or by mail, upon the Debtor, the Trustees of the Debtor, and all intervenors and applicants for allowances herein, or upon their respective attorneys appearing herein, on or before the 10th day of March, 1939, be deemed sufficient service upon and notice of this application.

Dated: Brooklyn, N. Y., March 10, 1939.

ROBERT A. INCH,  
U. S. D. J. E. D. N. Y.

**Petition of Prudence-Bonds Corporation for leave to appeal.**

210

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

*To the Honorable the Judges of the United States District Court for the Eastern District of New York:*

The petition of Prudence-Bonds Corporation, respectfully shows:

1. That your petitioner is a domestic corporation duly organized under the Stock Corporation Law and Section 9(b) of the General Corporation Law of the State of New York, and is the New Corporation formed pursuant to the Amended Plans of Reorganization, approved and confirmed in the above entitled proceedings. 211

2. Upon information and belief, that on June 29, 1934, the Debtor filed its petition for reorganization under Section 77B of the Bankruptcy Act; that by order made and entered herein on the same day said petition was approved as properly filed and Charles H. Kelby and Clifford S. Kelsey were appointed Temporary Trustees of the Debtor; that by order made and entered herein on July 31, 1934, the appointment of said Trustees was made Permanent and that said Trustees duly qualified and are still acting in that capacity. 212

3. Upon information and belief, that at the time of filing its petition for reorganization, the Debtor had outstanding eighteen (18) separate Series of First Mortgage-Collateral Bonds, payable to the bearer or registered holder thereof, aggregating in principal amount the sum of approximately \$56,000,000.00; that each of said Series of Bonds was secured by a Trust Agreement made between the Debtor and a Bank or Trust Company, under which mortgages and mortgage bonds and other securities were pledged by the Debtor for the equal and pro rata benefit and security of the holders of said bonds, which securities constitute the collateral underlying said Series of Bonds, and that the names of the Corporate Trustees or Successor Corporate Trustees at the time said proceedings were instituted and the respective dates of said Trust Agreements are as follows: 213

214	<i>Series</i>	<i>Trust Agreement dated</i>		<i>Corporate Trustee</i>
	A	January	15, 1920	Guaranty Trust Company of New York
	AA	August	1, 1922	City Bank Farmers Trust Company
	Third.	October	1, 1924	City Bank Farmers Trust Company
	Fourth	October	15, 1924	City Bank Farmers Trust Company
	Fifth	April	1, 1925	President & Directors of The Manhattan Company
	Sixth	July	1, 1925	Central Hanover Bank and Trust Company
215	Seventh	October	1, 1925	City Bank Farmers Trust Company
	Eighth	March	1, 1927	Brooklyn Trust Company
	Ninth	March	1, 1927	President & Directors of The Manhattan Company
	Tenth	May	1, 1927	State Street Trust Company
	Eleventh	December	1, 1927	Chicago Title & Trust Company
	Twelfth	February	1, 1928	Manufacturers Trust Company
	Thirteenth	June	1, 1928	Manufacturers Trust Company
216	Fourteenth	September	15, 1928	The Chase National Bank of The City of New York
	Fifteenth	October	1, 1928	Chemical Bank & Trust Company
	Sixteenth	February	1, 1929	The Marine Midland Trust Company of New York
	Seventeenth	August	1, 1929	City Bank Farmers Trust Company
	Eighteenth	February	2, 1931	Central Hanover Bank and Trust Company



4. Upon information and belief, that at the time of filing its petition for reorganization, the Debtor also had outstanding an issue of Mortgage Participation Certificates known as the Seneca Issue. 217

5. Upon information and belief, that the outstanding bonds of said eighteen (18) Series of Bonds, are held by approximately 35,000 bondholders residing in the State of New York, and elsewhere in many parts of the United States and in foreign countries.

6. Upon information and belief, that by order made and entered herein on March 11, 1936, an Amended Plan of Reorganization for the Debtor's Seneca Issue of Mortgage Participation Certificates was approved and confirmed. 218

7. Upon information and belief, that by order made and entered herein on May 6, 1936, an Amended Plan of Reorganization for Prudence Bonds, Fifteenth Series was approved and confirmed.

8. Upon information and belief, that by order made and entered herein on April 27, 1937, this Court found, that the Debtor herein was insolvent and that in respect of each of the eighteen (18) Series of Bonds, the fair value of the collateral pledged to secure each Series is less than the principal amount of the outstanding bonds and accrued unpaid interest thereon and that the Debtor, its stockholders and general creditors have no equity in the pledged collateral in any Series of Bonds. 219

9. Upon information and belief, that by eighteen (18) orders made and entered herein, on January 18, 1938, Amended Plans of Reorganization for Prudence Bonds, Series A, Series AA, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Sixteenth, Seventeenth and Eighteenth Series and a so-called Amended General Plan of Reorganization, were each approved and confirmed.

220 10. Upon information and belief, that the so-called Amended General Plan of Reorganization, provides for the formation of a New Corporation in accordance with Section 9(b) of the General Corporation Law of the State of New York; that all of the capital stock of such New Corporation shall be deposited under and subject to a Voting Trust Agreement; that the Voting Trustees shall be appointed by this Court and for the distribution of all Voting Trust Certificates or Voting Trust Scrip, pro rata, to the holders of bonds of the eighteen (18) Series of Bonds issued by the Debtor.

221 11. Upon information and belief, that in accordance with the Amended Plans of Reorganization approved and confirmed as aforesaid, your petitioner, the New Corporation provided for by the so-called Amended General Plan of Reorganization was organized under the Stock Corporation Law and Section 9(b) of the General Corporation Law of the State of New York and that its certificate of incorporation approved by this Court, was filed in the office of the Secretary of State, Albany, N. Y., on February 4, 1938.

222 12. Upon information and belief, that pursuant to the above mentioned orders, dated March 11, 1936, May 6, 1936 and January 18, 1938, the supervision of the consummation of said Amended Plans of Reorganization and the formation of the New Corporation to be organized pursuant thereto, was referred to James G. Moore, Esq., as Special Master, to hear and report with his opinion thereon.

13. Upon information and belief, that Special Master James G. Moore, filed herein an Intermediate Report, dated March 11, 1938, wherein he recommended that the Effective Date of the Amended Plans of Reorganization be fixed as March 1, 1938, and also reported upon the status of the bonds of each Series, cash on hand in the various Trust Funds, the amount to be set aside for fees and expenses in connection with these proceedings and the amounts to be

paid to bondholders as of the Effective Date of the said Plans. Said Report is hereby made a part hereof.

223

14. Upon information and belief, that by order made and entered herein on April 5, 1938, the said Intermediate Report of the Special Master, dated March 11, 1938, was approved and confirmed and funds reserved to pay reorganization expenses or allowances were directed to be turned over to your petitioner.

15. Upon information and belief, that by order made and entered herein on April 27, 1938, the Debtor and its Reorganization Trustees were authorized and directed to assign, transfer and convey to your petitioner, all of their right, title and interest in and to all the real and personal property, comprising or assigned, deposited or pledged to secure each and all of the eighteen (18) Series of Bonds issued by the Debtor and the Seneca Issue of Mortgage Participation Certificates of the Debtor, and that instruments of conveyance and assignment covering said property, have been executed and acknowledged by the Debtor and its Reorganization Trustees and delivered to your petitioner as of March 1, 1938.

224

16. Upon information and belief, that the collateral underlying the eighteen (18) Series of Bonds issued by the Debtor, which collateral is now owned by your petitioner subject to the lien of Supplemental Trust Agreements approved by the District Court, includes among other property, bonds of various Series of said eighteen (18) Series of Bonds, in the original face principal amount of approximately \$1,600,000.00.

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17. Upon information and belief, that by the above mentioned orders, dated March 11, 1936, May 6, 1936, the eighteen orders dated January 18, 1938, and also by orders made and entered herein on July 21, 1937, June 3, 1938 and June 6, 1938, there was referred to James G. Moore, Esq., as Special Master, the consideration of the persons or cor-

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porations to whom allowances for services or expenses should be made under the Plans of Reorganization confirmed herein and the provisions of Section 77B of the Bankruptcy Act, for written report and recommendation with his opinion thereon; that thereafter, approximately sixty-one (61) applications for allowances for services and disbursements in the aggregate total sum of approximately \$2,887,000.00 were filed with, and hearings thereon held before, said Special Master.

227

18. Upon information and belief, that the only objections filed with the Special Master to the said applications for allowances were the objections of your petitioner, Reconstruction Finance Corporation and the Trustees of The Prudence Company, Inc., Debtor. The objections of your petitioner, verified August 22, 1938, which are on file herein, are hereby made a part hereof.

19. Upon information and belief, that the Trustees of the Debtor herein, did not oppose or file objections to said applications for allowances, for the reason that, prior to the filing of the applications for allowances they had executed and delivered the instruments of conveyance and assignment referred to above in paragraph "15" hereof and that the Reconstruction Finance Corporation and your petitioner had evidenced their intention of analyzing the applications for allowances and filing objections thereto.

228

20. Upon information and belief, that said Special Master filed herein an Intermediate Report, dated November 30, 1938, wherein he recommended that allowances, for services and disbursements, be granted, in the aggregate sum of \$462,014.08, to a number of the applicants for allowances, but reserved for future determination the applications for allowances filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and their respective attorneys appearing in these reorganization proceedings. Said Report which is on file herein, is hereby made a part hereof.



21. Upon information and belief, that by a notice of motion, dated December 1, 1938, returnable December 9, 1938, Prudence Securities Advisory Group, an intervenor herein, made an application herein, for an order passing upon the said Intermediate Report of the Special Master, taking such action thereon as this Court might deem advisable and granting such other and further relief, as to this Court might seem just and proper. 229

22. Upon information and belief, that the said motion of Prudence Securities Advisory Group was adjourned from December 9, 1938 to December 16, 1938, so as to await the coming in of the Special Master's Report on the remaining applications for allowances then pending before him. 230

23. Upon information and belief, that thereafter, said Special Master filed herein an Intermediate Report, dated December 12, 1938, wherein he recommended that allowances, for services and disbursements in the aggregate sum of \$626,862.41, be granted to the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and their respective attorneys appearing herein and gave written notice to the parties in interest, that said Report would be handed up to the District Judge in charge of these proceedings on December 16, 1938, for consideration in conjunction with his Report, dated November 30, 1938 and that a hearing upon said two (2) Reports was held before this Court on December 16, 1938. Said Report which is on file herein, is hereby made a part hereof. 231

24. Upon information and belief, that all allowances and expenses of these reorganization proceedings are payable out of cash in the Trust Funds securing the eighteen (18) Series of Bonds issued by the Debtor, except allowances granted in the total sum of \$15,000.00 for services and disbursements in connection with the Plan of Reorganization for the Debtor's Seneca Issue of Mortgage Participation Certificates.

232 25. That your petitioner filed objections and exceptions to the confirmation of the said Reports of the Special Master, dated November 30, 1938 and December 12, 1938, upon the ground, among others, that the total allowances recommended by the Special Master in his said Reports, in the aggregate sum of \$1,088,876.49, plus all prior allowances granted in these reorganization proceedings, was excessive and unreasonable and beyond the ability of the Estate to pay. The said objections and exceptions of your petitioner which are on file herein, are hereby made a part hereof.

233 26. Upon information and belief, that under date of February 1, 1939, Hon. Robert A. Inch, District Judge, handed down an opinion, ruling that the Special Master's Report of November 30, 1938, should be confirmed, granting allowances in the aggregate sum of \$19,500.00, in addition to the allowances recommended by the Special Master, in said Report, totalling the sum of \$411,059.44, and reserving for future determination the application for an allowance for disbursements of the sum of \$50,954.64, filed by the Trustees of New York Investors, Inc., which the Special Master in his Report, dated November 30, 1938, recommended be denied, and also reserving for future determination, the allowances recommended by the Special Master in his Report dated December 12, 1938, in the aggregate sum of \$626,862.41 for the above named eleven (11)  
 234 Corporate Trustees and their respective attorneys appearing herein.

27. Upon information and belief, that in said opinion dated February 1, 1939, this Court stated in part as follows:

"While this reorganization proceeding was commenced under Section 77B of the Bankruptcy Act (11 U. S. C. A., Section 207), the petition having been filed June 29, 1934, the new provisions of Chap. 10, Article 13, of the Chandler Act (11 U. S. C. A., Section 341 et seq.) can be applied as fairly and conveniently to these applications as they could be, had

the proceeding been started within three months of the effective date of the Act, to wit, June 22, 1938. I 235  
consider it practicable therefore to apply them."

28. Upon information and belief, that the District Judge ruled, that each party to whom an allowance had been awarded or denied, might submit a separate order covering the particular application involved, but that there might be included in a single order, the matters not covered by separate orders submitted by February 17, 1938 and that thereafter, separate orders on allowances were submitted and made herein and entered in the office of the Clerk of this Court, as follows:

(a) Order, dated February 14, 1939, whereby, among other things; allowances in the aggregate sum of \$65,- 720.05, were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements. 236

(b) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,- 786.07, were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

(c) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00, were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services. 237

(d) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,- 201.96, were granted to Bondholders' Protective Committee, for Prudence-Bonds, Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tamblin, Esqs., its attorneys herein, for services and disbursements.

(e) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

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(f) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19, was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Power & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

(g) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78, were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

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(h) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00, was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services.

(i) Order, dated February 21, 1939, whereby among other things, an allowance in the sum of \$14,714.02, was granted to General Committee for Prudence Securities, for services and disbursements.

(j) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26, were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

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(k) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee for Prudence Securities, for services.

(l) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,500.00, was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services.

(m) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67, was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trus-



tee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

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(n) Order, dated February 21, 1939, whereby, among other things; (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7,500.00, were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12, was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance, for future determination.

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(o) Order, dated February 21, 1939, which denied the application of your petitioner, Prudence-Bonds Corporation (New Corporation), for a re-argument of the application for the consideration of the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938.

29. That your petitioner intends to appeal from the orders described in the preceding paragraph, and is advised by counsel, that in view of the provisions of the Chandler Act and the general orders in Bankruptcy, as amended effective February 13, 1939, and under all the facts and circumstances herein, petitioner may appeal from each and all of said orders as a matter of right without obtaining leave of this Court. Petitioner, however, is further advised by counsel, that some question might be raised that leave of this Court should have been obtained to perfect petitioner's right to appeal from the order granting allowances to others than the Trustees of the Debtor and their counsel. Your petitioner therefore makes this application for leave to take

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244 and prosecute such appeals, in order to avoid the possibility of substantial rights being defeated by a technicality.

30. That your petitioner verily believes, that under all the facts and circumstances herein, the granting of this application would be in the best interests of the bondholders and others interested in the Estate of the Debtor affected by said orders.

245 31. That the reason an order to show cause is requested, is that petitioner is advised, that the time to appeal from at least one of the above mentioned orders may expire on March 16, 1939; and your petitioner therefore desires to have this application heard prior to that time.

32. That no previous application has been made for the relief herein requested.

WHEREFORE, your petitioner respectfully prays, that an order be made and entered herein, granting leave to your petitioner to appeal from the orders described in paragraph "28" above; granting such other and further relief as may be proper in the premises and that an order to show cause in the form hereto annexed be granted.

Dated: New York, N. Y., March 10, 1938.

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PRUDENCE-BONDS CORPORATION,

By: THOMAS W. STREETER,  
President.

[Verified March 10, 1939.]

**Affidavit submitted on motions for leave to appeal.**

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**UNITED STATES DISTRICT COURT,**

**EASTERN DISTRICT OF NEW YORK.**

**[CAPTION]**

CITY OF NEW YORK  
COUNTY OF NEW YORK } ss.:  
STATE OF NEW YORK }

**CHARLES H. KELBY** being duly sworn, deposes and says:

I am one of the Trustees of the Debtor in the above entitled matter.

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On the 7th day of June, 1938, on behalf of the Trustees and at their request, counsel for the Trustees made the following statement at a hearing on that day on the matter of allowances before the Special Master:

“ \* \* \* it has been the position of the Trustees of Prudence-Bonds Corporation that they have now been superseded by the new corporation and for that reason they do not intend to file any objections  
\* \* \* ”

No objection has ever been made to the position thus taken by the Trustees, nor has any request at any time been made by anyone upon the Trustees to object to the allowances or to file objections or exceptions to the Special Master's report or to take any appeal from the decree entered thereon.

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If the motion now before the Court is to be construed as such a request or demand that the Trustees appeal from the decree on allowances, the Trustees are willing to take the appeal, if the new company will indemnify the Trustees against all costs and expenses thereon or that the appeal

250 thus taken be prosecuted by the new company in the Trustees' names, or jointly with the Trustees.

In this connection, it would be proper to point out that there may be doubt that the Trustees are the proper parties in interest for the reason that, pursuant to an order of this Court dated April 27, 1938, the Trustees conveyed to the new corporation all their right, title and interest in and to all the real and personal property in all of the eighteen series of bonds and the Seneca certificate issue. By such conveyance, the new company is the successor of the Trustees to the reorganization fund in question or any surplus or balance thereof which fund was turned over to the new company pursuant to the order of this Court dated April 5, 1938, so that in the event that the Trustees appealed or joined in an appeal, the estate of the Debtor would in no sense be benefited.

CHARLES H. KELBY.

[Sworn to March 14, 1939.]

**Order granting R. F. C. leave to appeal.**

252 At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, City and State of New York, on the 15th day of March, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

[CAPTION]

Reconstruction Finance Corporation, an intervenor herein, having duly moved this Court by order to show cause dated March 10, 1939, for an order granting to it



leave to take and prosecute appeals to the United States Circuit Court of Appeals for the Second Circuit from any or all of the orders of this Court in these proceedings referred to in the said order to show cause and the petition of Reconstruction Finance Corporation duly verified March 10, 1939, upon which said order to show cause was based, and said application having duly come on to be heard before this Court on the 14th day of March, 1939, 253

Now, on reading and filing the aforesaid order to show cause dated March 10, 1939 and the petition of Reconstruction Finance Corporation, duly verified March 10, 1939, upon which the same was based, together with proof of the due service thereof in accordance with the provisions of said order to show cause, and after hearing James F. Dealy, Esq., counsel for said Reconstruction Finance Corporation and Charles M. McCarty, Esq., attorney for Prudence-Bonds Corporation (New Corporation), in support of said application and Almet R. Latson, Jr., in opposition thereto and upon reading and filing the affidavit of Charles H. Kelby duly verified the 14th day of March, 1939, and due deliberation having been had thereon, it is hereby 254

ORDERED, that the aforesaid application of Reconstruction Finance Corporation be and the same hereby is in all respects granted; and it is further

ORDERED, that Reconstruction Finance Corporation, an intervenor herein, be and it hereby is granted leave of this Court to take and prosecute appeals to the United States Circuit Court of Appeals for the Second Circuit from all or any part of any or all of the following orders of this Court in these proceedings: 255

(1) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05 were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements.

256

(2) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07 were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

(3) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00 were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services.

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(4) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96 were granted to Bondholders' Protective Committee, for Prudence-Bonds Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tambllyn, Esqs., its attorneys herein, for services and disbursements.

(5) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

(6) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19 was granted to Frueauff, Burns, O'Brien & Ruch, Esq., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

258

(7) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78 were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

(8) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00 was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services.

(9) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02 was granted to General Committee for Prudence Securities, for services and disbursements. 259

(10) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26 were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

(11) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee for Prudence Securities, for services.

(12) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1500.00 was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services. 260

(13) Order, lated February 21, 1939, whereby, among other things, an allowance in the sum of \$1073.67 was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee to Prudence-Bonds, Third and Seventh Series, for services and disbursements.

(14) Order, dated February 21, 1939, whereby among other things, (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7500.00 were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12 was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing 261

262 herein, for allowances for services and disbursements, were held in abeyance for future determination.

ROBERT A. INCH,  
U. S. D. J.

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**Order granting Prudence-Bonds Corporation leave to appeal.**

**UNITED STATES DISTRICT COURT,**

**EASTERN DISTRICT OF NEW YORK.**

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**[ CAPTION ]**

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A motion by an order to show cause, signed by the Hon. Robert A. Inch, and dated March 10, 1939, upon the petition of Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in these proceedings, duly verified the 10th day of March, 1939, and upon the papers filed and the proceedings heretofore had herein, having duly come on to be heard before me on the 14th day of March, 1939, for an order granting leave to petitioner to appeal from the orders described in paragraph "28" of said petition, and for such other and further relief as may be just and proper in the premises;

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Now, upon reading and filing the said order to show cause, with proof of due service thereof, upon the necessary parties to this proceeding as required by said order to show cause, and upon reading and filing the said petition of Prudence-Bonds Corporation, the New Corporation duly verified the 10th day of March, 1939, in support of said motion, and no papers being filed in opposition thereto, and after hearing CHARLES M. McCARTY, Esq., attorney for Prudence-Bonds Corporation, the New Corporation, and James F. Dealy, Esq., attorney for Reconstruction Finance Corpora-



tion, in support of said motion and Almet R. Latson, Jr., in opposition thereto, and upon reading and filing the affidavit of Charles H. Kelby, duly verified the 14th day of March, 1939, and upon all the papers filed and the proceedings heretofore had herein, and due deliberation having been had thereon, it is,

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ORDERED, that the said motion be and hereby is, in all respects granted; and it is further

ORDERED, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in these proceedings, be and it hereby is, granted leave to take and prosecute appeals to the United States Circuit Court of Appeals for the Second Circuit, from any and all of the following orders of this Court made and entered in these proceedings:

266

(a) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05, were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements.

(b) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07, were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

267

(c) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00, were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services.

(d) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96, were granted to Bondholders' Protective Committee, for Prudence-Bonds, Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tambllyn, Esqs., its attorneys herein, for services and disbursements.

268

(e) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

(f) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19, was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

269

(g) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78, were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

(h) Order, dated February 21, 1939, whereby, among other things an allowance in the sum of \$20,000.00, was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services.

(i) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02, was granted to General Committee for Prudence Securities, for services and disbursements.

270

(j) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26, were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney here, for services and disbursements.

(k) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee for Prudence Securities, for services.

(l) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,500.00, was

granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services.

271

(m) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67, was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

(n) Order, dated February 21, 1939, whereby, among other things; (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7,500.00, were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12, was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination.

272

(o) Order, dated February 21, 1939, which denied the application of Prudence-Bonds Corporation (New Corporation), for a re-argument of the application for the consideration of the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938.

273

Dated: Brooklyn, N. Y., March 15, 1939.

ROBERT A. INCH

U. S. D. J. E. D. N. Y.

274 Notice of appeal by R. F. C. from order awarding allowances  
to Prudence Securities Advisory Group, et al.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

275 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05, were granted to Prudence Securities Advisory Group and Percival E. Jackson and Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

276 Dated, New York, N. Y.,  
March 14, 1939.

Yours, etc.,

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.



To:

277

PERCIVAL E. JACKSON &amp;

CLINTON T. ROE, ESQS.,

Pro se and as attorneys for  
Prudence Securities Advisory Group,  
68 William Street,  
New York, N. Y.

CHARLES M. McCARTY, Esq.,

Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

278

GEORGE C. WILDERMETH, Esq.,

Pro se and as attorney for Trustees of  
the Debtor,  
188 Montague Street,  
Brooklyn, New York.

HON. PERCY G. B. GILKES,

Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

279

- 280 Notice of appeal by R. F. C. from order awarding allowance to Metz Committee, *et al.*

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

---

[CAPTION]

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SIRS:

- 281 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07, were granted to Bondholders Reorganization Committee for Sixth and Twelfth Series, sometimes called, the "Metz Committee" and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

- 282 Dated, New York, N. Y.,  
March 14, 1939.

Yours, etc.,

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor

Office & P. O. Address  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.

To:

283

**RABENOLD, SCRIBNER & MILLER,**  
**Esqs., and MARK HYMAN, Esq.,**  
 Pro se and as attorneys for  
 Bondholders Reorganization  
 Committee for Sixth and Twelfth  
 Series,  
 20 Exchange Place,  
 New York, N. Y.

**CHARLES M. McCARTY, Esq.,**  
 Attorney for Prudence-Bonds Corporation  
 100 East 42nd Street,  
 New York, N. Y.

284

**GEORGE C. WILDERMUTH, Esq.,**  
 Pro se and as attorney for the Trustees  
 of the Debtor,  
 188 Montague Street,  
 Brooklyn, New York.

**HON. PERCY G. B. GILKES,**  
 Clerk of United States District Court,  
 Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
 Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
 1939." 285

286

Notice of appeal by R. F. C. from order awarding allowances  
to Trustees of Debtor *et al.*

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

---

[ CAPTION ]

---

SIRS:

287

PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00, were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor herein and Geo. C. Wildermuth, Esq., their attorney herein, for services, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

288

Dated, New York, N. Y.,  
March 14, 1939:

Yours, etc.,

JAMES F. DEALY

Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor

Office & P. O. Address

No. 30 Broad Street,

Borough of Manhattan,

New York, N. Y.



To:

289

GEO. C. WILDERMUTH, Esq.,  
Pro se and as attorney for Charles  
H. Kelby and Clifford S. Kelsey, as  
Trustees of Prudence-Bonds Corporation,  
Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

CHARLES M. MCCARTY, Esq.  
Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

290

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office, U. S. District Court, E. D. N. Y., March 15,  
1939."

291

292 Notice of appeal by R. F. C. from order awarding allowances  
to Sixteenth Series Committee, et al.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK

[CAPTION]

SIRS:

293 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96, were granted to Bondholders Protective Committee, for Prudence-Bond, Sixteenth Series and Rogers & Whitaker, Esqs., and Latson & Tamblyn, Esqs., its attorneys herein, for services and disbursements, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

294 Dated, New York, N. Y.,  
March 14, 1939.

Yours, etc.,

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.

To:

295

**ROGERS & WHITAKER, Esqs., and  
LATSON & TAMBLYN, Esqs.,**

Pro se and as attorneys for Bond-  
holders Protective Committee for  
Prudence-Bonds, Sixteenth Series,  
52 Wall Street,  
New York, N. Y.

**CHARLES M. McCARTY, Esq.,**  
Attorney for Prudence-Bonds Corporation,  
160 East 42nd Street,  
New York, N. Y.

296

**GEORGE C. WILDERMUTH, Esq.,**  
Pro se, and as attorney for Trustees  
of the Debtor,  
188 Montague Street, Brooklyn,  
New York

**HON. PERCY G. B. GILKES,**  
Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office, U. S. District Court, E. D. N. Y., March 15, 1939." 297

- 298 Notice of appeal by R. F. C. from order awarding allowance to Samuel Silbiger.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

- 299 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION; an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

Dated, New York, N. Y., March 14, 1939.

300

Yours, etc.,

JAMES F. DEALY,  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.



To:

301

**SAMUEL SILBIGER, Esq.,**  
 Pro se,  
 66 Court Street,  
 Brooklyn, New York.

**CHARLES M. McCARTY, Esq.,**  
 Attorney for Prudence-Bonds Corporation,  
 100 East 42nd Street,  
 New York, N. Y.

**GEORGE C. WILDERMUTH, Esq.,**  
 Pro se and as attorney for Charles H. Kelby and  
 Clifford S. Kelsey, as Trustees of Prudence-Bonds  
 Corporation, Debtor,  
 188 Montague Street,  
 Brooklyn, New York.

302

**HON. PERCY G. B. GILKES,**  
 Clerk of United States District Court,  
 Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
 Clerk's Office U. S. District Court E. D. N. Y. March 15,  
 1939."

303

- 304 Notice of appeal by R. F. C. from order awarding allowance to attorneys for Debtor.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

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[ CAPTION ]

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SIRS:

- 305 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, as amended by order of said Court dated February 24, 1939, whereby, among other things, an allowance in the aggregate sum of \$71,623.19, was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., as attorneys for the Debtor herein, for services and disbursements, and that
- 306 said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof, except that portion of said order which relates to an allowance in the sum of \$9,000.00, payable by the Trustees of the Debtor out of funds in their hands for the payment of allowances and expenses in the reorganiza-

tion of the Seneca Issue of Mortgage Participation Certificates of the Debtor.

307

Dated, New York, N. Y., March 14, 1939.

Yours, etc.,

JAMES F. DEALY,  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.

To:

308

FRUEAUFF, BURNS, O'BRIEN & RUCH, Esqs.,  
and POWELL & RUCH, Esqs.,  
Sixty Wall Street,  
New York, N. Y.

CHARLES M. MCCARTY, Esq.,  
Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

GEORGE C. WILDERMUTH, Esq., Pro se and as  
Attorney for Charles H. Kelby and Clifford S.  
Kelsey, Trustees of Prudence-Bonds Corporation,  
Debtor,  
188 Montague Street,  
Brooklyn, New York.

309

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is Stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

310 Notice of appeal by R. F. C. from order awarding allowances to Independent Committee, et al.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

311 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78, were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order; as well as from the whole thereof.

Dated, New York, N. Y. March 14, 1939.

312

Yours, etc.,

JAMES F. DEALY,  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.



To:

313

GEORGE M. JAFFIN and LEONARD KLABER, Esqs.,  
Pro se and as attorneys for Independent  
Prudence Bondholders Protective Committee,  
285 Madison Avenue,  
New York, N. Y.

CHARLES M. McCARTY, Esq.,  
Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

GEORGE C. WILDERMUTH, Esq.,  
Pro se and as attorney as Trustees of Prudence-  
Bonds Corporation, Debtor,  
188 Montague Street,  
Brooklyn, New York.

314

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

315

316 Notice of appeal by R. F. C. from order awarding allowance to Delafield, Marsh, Porter & Hope.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

317 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00, was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

318 Dated, New York, N. Y.,  
March 14, 1939.

Yours, etc.,

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.

To: ..

319

DELAFIELD, MARSH, PORTER & HOPE, Esqs.,

Pro se,  
20 Exchange Place,  
New York, N. Y.

CHARLES M. McCARTY, Esq.,

Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

GEORGE C. WILDERMUTH, Esq.,

Pro se and as attorney for Charles H. Kelby  
and Clifford S. Kelsey, as Trustees of Pru-  
dence-Bonds Corporation, Debtor,  
188 Montague Street,  
Brooklyn, New York.

320

HON. PERCY G. B. GILKES,

Clerk of the United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

321

322 Notice of appeal by R. F. C. from order awarding allowances  
to Tenth Series Committee, et al.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

323 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26 were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

324 Dated, New York, N.Y.,  
March 14, 1939.

Yours, etc.,

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.



To:

325

GROSVENOR CALKINS, Esq.,  
Pro se and as attorney for  
Tenth Series Committee,  
53 State Street,  
Boston, Mass.

CHARLES M. McCARTY, Esq.,  
Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

GEORGE C. WILDERMUTH, Esq.,  
Pro se and as attorney for Charles H. Kelby  
and Clifford S. Kelsey, as Trustees of Pru-  
dence-Bonds Corporation, Debtor,  
188 Montague Street,  
Brooklyn, New York.

326

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

327

328 Notice of appeal by R. F. C. from order awarding allowance  
to General Committee for Prudence Securities.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

329 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02, was granted to General Committee for Prudence Securities, for services and disbursements, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

Dated, New York, N. Y.,  
March 14, 1939.

Yours, etc.,

330

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.

To:

331

CULLEN & DYKMAN, EDWARD ENDELMAN and  
JACOB A. FREEDMAN, ESQS.,

Attorneys for General Committee for  
Prudence Securities,  
215 Montague Street,  
Brooklyn, New York.

CHARLES M. MCCARTY, Esq.,  
Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

332

GEORGE C. WILDERMUTH, Esq.,  
Pro se and as attorney for Charles H. Kelby  
and Clifford S. Kelsey, as Trustees of Pru-  
dence-Bonds Corporation, Debtor,  
188 Montague Street,  
Brooklyn, New York.

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939." 333

334 Notice of appeal by R. F. C. from order awarding allowance to Jacob A. Freedman.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

335 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee for Prudence Securities, for services, and that such appeal is only from that part of said order which grants said allowance of \$5,000 to said Jacob A. Freedman, Esq.

Dated, New York, N. Y.,  
March 14, 1939.

336

Yours, etc.,

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor,  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.



To:

337

JACOB A. FREEDMAN, Esq.,  
Pro se,  
32 Court Street,  
Brooklyn, New York.

CHARLES M. MCCARTY, Esq.,  
Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

GEORGE C. WILDERMUTH, Esq.,  
Pro se and as attorney for  
Charles H. Kelby and Clifford S. Kelsey,  
as Trustees of Prudence-Bonds  
Corporation, Debtor,  
188 Montague Street,  
Brooklyn, New York.

338

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

339

340 Notice of appeal by R. F. C. from order awarding allowance to Archibald Palmer.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

341

PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$1,500.00 was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

Dated, New York, N. Y.,  
March 14, 1939

342

Yours, etc.,

JAMES F. DEALY

Attorney for RECONSTRUCTION FINANCE CORPORATION, Intervenor,  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.

To:

343

**ARCHIBALD PALMER, Esq.,**

Pro se,  
2 Lafayette Street,  
New York, N. Y.

**CHARLES M. MCCARTY, Esq.,**

Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
New York, N. Y.

**GEORGE C. WILDERMUTH, Esq.,**

Pro se and as attorney for Charles H. Kelby  
and Clifford S. Kelsey, as Trustees of  
Prudence-Bonds Corporation,  
Debtor,  
188 Montague Street,  
Brooklyn, New York.

344

**HON. PERCY G. B. GILKES,**

Clerk of the United States District Court,  
Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

345

346 Notice of appeal by R. F. C. from order awarding allowance  
to MacIntyre, McNally & Downey.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

347 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above-entitled proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67, was granted to MacIntyre, McNally & Downey, Esqs., Special Counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements, and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order, as well as from the whole thereof.

348 Dated, New York, N. Y.,  
March 14, 1939.

Yours, etc.,

JAMES F. DEALY  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor,  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y..



To:

349

MACINTYRE, McNALLY & DOWNEY, Esqs.,

Pro se,

32 Broadway,

New York, N. Y.

CHARLES M. McCARTY, Esq.,

Attorney for Prudence-Bonds Corporation,

100 East 42nd Street,

New York, N. Y.

GEORGE C. WILDERMUTH, Esq.,

Pro se and as attorney for Charles H. Kelby

and Clifford S. Kelsey, as Trustees of

Prudence-Bonds Corporation,

Debtor,

188 Montague Street,

Brooklyn, New York.

350

HON. PERCY G. B. GILKES,

Clerk of United States District Court,

Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939."

351

352 Notice of appeal by R. F. C. from parts of order of Feb. 21, 1939 awarding allowances to Prudence Bondholders Protective Assn., et al. and denying other allowances.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

353 PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from the portions designated and included in paragraphs numbered "(1)" to "(5)" inclusive, and in paragraph numbered "(10)", of an order of this Court made in the above-entitled proceedings by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby among other things: (a) the Reports of Special Master James G. Moore, on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (b) allowances in the aggregate sum of \$7,500.00, were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (c) an allowance of the sum of \$540.12, was granted to Cummings & Lockwood, Esqs., Special Counsel for Manufacturers Trust Company, as Trustee of Prudence Bonds Twelfth Series, for services and disbursements, and (d) the application filed herein by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed herein by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and dis-

354

bursements, were held in abeyance for future determination.

355

Dated, New York, N. Y.,  
March 14, 1939.

Yours, etc.,

**JAMES F. DEALY**  
Attorney for RECONSTRUCTION FINANCE  
CORPORATION, Intervenor  
Office & P. O. Address,  
No. 30 Broad Street,  
Borough of Manhattan,  
New York, N. Y.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939."

356

Notice of appeal by Prudence Bonds Corporation from order  
awarding allowances to Prudence Securities  
Advisory Group, et al.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

357

Sirs:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the

358 office of the Clerk of this Court on February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05, were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements, and that said Prudence Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts.

Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

CHARLES M. McCARTY

Attorney for Prudence Bonds Corporation (New Corporation)

Office & P. O. Address,

No. 100 E. 42nd Street,

Borough of Manhattan,

New York, N. Y.

359

To:

PERCIVAL E. JACKSON &

CLINTON T. ROE, Esqs.,

Pro Se and as attorneys for

Prudence Securities Advisory Group,

68 William Street,

New York, N. Y.

360

HON. PERCY G. B. GILKES,

Clerk of United States District Court,

Eastern District of New York.

GEO. C. WILDERMUTH, Esq.,

Attorney for the Trustees of the Debtor,

188 Montague Street,

Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939."



Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowances to Metz Committee, et al.

361

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 14, 1939, whereby among other things, allowances in the aggregate sum of \$43,786.07, were granted to Bondholders Reorganization Committee for Sixth and Twelfth Series, sometimes called, the "Metz Committee" and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts.

362

363

Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

CHARLES M. McCARTY

Attorney for Prudence-Bonds  
Corporation (New Corporation)  
Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

364 To:

**RABENOLD, SCRIBNER &  
MILLER, Esqs., and  
MARK HYMAN, Esq.,**  
Pro-se and as attorneys for  
Bondholders Reorganization  
Committee for Sixth &  
Twelfth Series,  
20 Exchange Place,  
New York, N. Y.

365

**HON. PERCY G. B. GILKES,**  
Clerk of United States District Court,  
Eastern District of New York.

**GEO. C. WILDERMUTH, Esq.,**  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15,  
1939."

366

Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowances to Trustees of the Debtor  
and their attorney.

367

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00, were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor herein and Geo. C. Wildermuth, Esq., their attorney herein, for services; and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts.

368

369

Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

E. STANLEY MARKS,  
Attorney for Prudence-Bonds Corporation (New Corporation)  
Office & P. O. Address,  
111 Duane Street,  
New York, N. Y.

370 To:

GEO. C. WILDERMUTH, Esq.,  
Pro Se and as attorney for  
Charles H. Kelby and  
Clifford S. Kelsey, as Trustees  
of Prudence-Bonds  
Corporation, Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

371

The foregoing Notice of Appeal is stamped "Filed in Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939."

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Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowances to Sixteenth Series  
Committee, et al.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

372

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[CAPTION]

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SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the



office of the Clerk of this Court on February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96, were granted to Bondholders Protective Committee, for Prudence-Bonds, Sixteenth Series and Rogers & Whitaker, Esqs., and Latson & Tamblyn, Esqs., its attorneys herein, for services and disbursements, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts. 373

Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds  
Corporation (New Corporation) 374  
Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

To:

ROGERS & WHITAKER, Esqs.,  
and LATSON & TAMBLYN, Esqs.,  
Pro Se and as attorneys for  
Prudence-Bonds, Sixteenth Series  
52 Wall Street,  
New York, N. Y.

HON. PERCY G. B. GILKES, 375  
Clerk of United States District Court,  
Eastern District of New York.

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939."

376 Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowance to Samuel Silbiger.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

377 PLEASE TAKE NOTICE, that Prudence-Bonds Corporation,  
the New Corporation formed pursuant to the Amended  
Plans of Reorganization approved and confirmed in the  
above entitled proceedings, hereby appeals to the United  
States Circuit Court of Appeals, for the Second Circuit,  
from an order of this Court made in said proceedings, by  
the Hon. Robert A. Inch, District Judge, and entered in  
the office of the Clerk of this Court on February 16, 1939,  
whereby, among other things, an allowance in the sum of  
\$5,000.00, was granted to Samuel Silbiger, Esq., attorney  
for George E. Eddy, for services, and that said Prudence-  
Bonds Corporation, hereby appeals from each and every  
part of said order, as well as from the whole thereof, both  
on the law and on the facts.

378 Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

CHARLES M. McCARTY.

Attorney for Prudence-Bonds Corporation  
(New Corporation)

Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

To:

SAMUEL SILBIGER, Esq., Pro Se,  
66 Court Street,  
Brooklyn, N. Y.

379

HON. PERCY G. B. GILKES,  
Clerk of United States District Court  
Eastern District of New York.

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939." 380

**Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowance to attorneys for Debtor.**

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

381

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, as amended by order dated February 24, 1939, whereby, among other things, an allowance in the aggregate sum of \$71,-

382 623.19, was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., as attorneys for the Debtor herein, for services and disbursements, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts, except that portion of said order which relates to an allowance in the sum of \$9,000.00, payable by the Trustees of the Debtor out of funds in their hands for the payment of allowances and expenses in the reorganization of the Seneca Issue of Mortgage Participation Certificates of the Debtor.

Dated: New York, N. Y., March 14, 1939.

383

Yours, etc.,

E. STANLEY MARKS,  
Attorney for Prudence-Bonds Corporation  
(New Corporation)

Office & P. O. Address

111 Duane Street,  
Borough of Manhattan,  
New York, N. Y.

To:

FRUEAUFF, BURNS, O'BRIEN & RUCH, ESQS.,  
and POWELL & RUCH, ESQS., Pro Se,  
Sixty Wall Street,  
New York, N. Y.

384

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

GEO. C. WILDERMUTH, ESQ.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in Clerk's Office U. S. District Court, E. D. N. Y., March 15, 1939."



Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowances to Independent Committee, et al. 385

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78, were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts. 386

Dated: New York, N. Y., March 14, 1939. 387

Yours, etc.,

CHARLES M. MCCARTY,  
Attorney for Prudence-Bonds Corporation  
(New Corporation)

Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

388 To:

GEORGE M. JAFFIN and LEONARD KLABER, ESQS.,  
Pro Se and as attorneys for Independent Prudence  
Bondholders Protective Committee,  
285 Madison Avenue,  
New York, N. Y.

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

389 GEO. C. WILDERMUTH, ESQ.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office, U. S. District Court, E. D. N. Y., March 15,  
1939."

Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowance to Delafield, Marsh, Porter  
& Hope.

390

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation,  
the New Corporation formed pursuant to the Amended  
Plans of Reorganization approved and confirmed in the  
above entitled proceedings, hereby appeals to the United

States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00, was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts. 391

Dated: New York, N. Y., March 14, 1939.

Yours, etc., 392

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds  
Corporation (New Corporation)  
Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

To:

DELAFIELD, MARSH, PORTER &  
HOPE, Esqs., Pro se,  
20 Exchange Place,  
New York, N. Y.

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York. 393

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in Clerk's office U. S. District Court E. D. N. Y. March 15, 1939."

- 394 **Notice of appeal by Prudence-Bonds Corporation from order awarding allowances to Tenth Series Committee, et al.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

[CAPTION]

**SIRS:**

- 395 **PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26, were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts.**

- 396 **Dated: New York, N. Y., March 14, 1939.**

**Yours, etc.,**

**CHARLES M. McCARTY,  
Attorney for Prudence-Bonds  
Corporation (New Corporation)**

**Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.**



To:

GROSVENOR CALKINS, Esq.,  
Pro Se and as attorney for  
Tenth Series Committee,  
53 State Street,  
Boston, Mass.

397

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

398

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's office U. S. District Court E. D. N. Y. March 15,  
1939."

Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowance to General Committee for  
Prudence Securities.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

399

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation,  
the New Corporation formed pursuant to the Amended  
Plans of Reorganization approved and confirmed in the  
above entitled proceedings, hereby appeals to the United  
States Circuit Court of Appeals, for the Second Circuit,  
from an order of this Court made in said proceedings, by  
the Hon. Robert A. Inch, District Judge, and entered in the

400 office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02, was granted to General Committee for Prudence Securities, for services and disbursements, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts.

Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds  
Corporation (New Corporation)

401

Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

To:

CULLEN & DYKMAN, EDWARD  
ENDELMAN and JACOB A.  
FREEDMAN, Esqs.,

Attorneys for General Committee for  
Prudence Securities.

402

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in Clerk's office U. S. District Court E. D. N. Y. March 15, 1939."

**Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowance to Jacob A. Freedman.** 403

**UNITED STATES DISTRICT COURT,**

**EASTERN DISTRICT OF NEW YORK.**

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**[ CAPTION ]**

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**SIRS:**

**PLEASE TAKE NOTICE, that Prudence-Bonds Corporation,  
the New Corporation formed pursuant to the Amended  
Plans of Reorganization approved and confirmed in the  
above entitled proceedings, hereby appeals to the United  
States Circuit Court of Appeals, for the Second Circuit,  
both on the law and on the facts, from an order of this  
Court made in said proceedings, by the Hon. Robert A. Inch,  
District Judge, and entered in the office of the Clerk of this  
Court on February 21, 1939, whereby, among other things,  
an allowance in the sum of \$5,000.00, was granted to Jacob  
A. Freedman, Esq., as associate counsel for General Com-  
mittee for Prudence Securities, for services, and that such  
appeal is only from that part of said order which grants  
said allowance of \$5,000.00 to said Jacob A. Freedman, Esq.** 404

**Dated: New York, N. Y., March 14, 1939.**

**Yours, etc.,** 405

**CHARLES M. McCARTY**

**Attorney for Prudence-Bonds Corporation  
(New Corporation)**

**Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.**

406 To:

JACOB A. FREEDMAN, Esq.,  
Pro. se,  
32 Court Street,  
Brooklyn, N. Y.

HON. PERCY G. B. GILKES,  
Clerk of the United States District Court,  
Eastern District of New York.

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

407 The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office, U. S. District Court, E. D. N. Y., March 15,  
1939."

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**Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowance to Archibald Palmer.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

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[CAPTION]

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408

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939,



whereby, among other things, an allowance in the sum of \$1,500.00 was granted to Archibald Palmer, Esq., attorney 409 for the Mayer Committee, for services, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts.

Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds Corporation  
(New Corporation)

Office & P. O. Address, 410  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

To:

ARCHIBALD PALMER, Esq.,  
Pro se,  
2 Lafayette Street,  
New York, N. Y.

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York. 411

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 15, 1939."

412 Notice of appeal by Prudence-Bonds Corporation from order  
awarding allowance to MacIntyre, McNally & Downey.

## UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

413 PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67, was granted to Mac Intyre, Mc Nally & Downey, Esqs., Special Counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and on the facts.

414 Dated: New York, N. Y., March 14, 1939.

Yours, etc.,

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds Corporation  
(New Corporation)

Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

To:

415

MACINTYRE, McNALLY and  
DOWNEY, Esqs., Pro Se,  
32 Broadway,  
New York, N. Y.

HON. PERCY G. B. GILKES,  
Clerk of United States District Court,  
Eastern District of New York.

GEO. C. WILDERMUTH, Esq.,  
Attorney for the Trustees of the Debtor,  
188 Montague Street,  
Brooklyn, N. Y.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office, U. S. District Court, E. D. N. Y., March 15,  
1939." 416

**Notice of appeal by Prudence-Bonds Corporation from order  
of Feb. 21, 1939 awarding allowances to various  
applicants.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

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[CAPTION]

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417

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation,  
the New Corporation formed pursuant to the Amended  
Plans of Reorganization approved and confirmed in the  
above entitled proceedings, hereby appeals to the United  
States Circuit Court of Appeals, for the Second Circuit,  
from an order of this Court made in said proceedings  
by the Hon. Robert. A. Inch, District Judge, and en-

418 tered in the office of the Clerk of this Court on February 21, 1939, whereby, among other things; (a) the Reports of Special Master James G. Moore, on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (b) allowances in the aggregate sum of \$7,500.00, were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (c) an allowance of the sum of \$540.12, was granted to Cummings & Lockwood, Esqs., Special Counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth Series, for services and disbursements, and (d) the application filed herein by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed herein by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance, for future determination, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order as well as from the whole thereof, both on the law and on the facts, except those portions of said order set forth in the paragraphs thereof, designated "6" "7" "8" "9" and "11".

419

Dated: New York, N. Y., March 14, 1939.

420

Yours, etc.,

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds Corporation  
(New Corporation)

Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 15, 1939."



**Notice of appeal by Prudence-Bonds Corporation from  
Order Denying Reargument.**

421

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

[ CAPTION ]

**SIRS:**

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings, by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21, 1939, which denied the application of said Prudence-Bonds Corporation for a re-argument of the application made herein for the consideration of the Reports of Special Master James G. Moore, on allowances, dated November 30, 1938 and December 12, 1938, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order, as well as from the whole thereof.

422

Dated: New York, N. Y.,  
March 14, 1939.

Yours, etc.,

423

**CHARLES M. McCARTY,  
Attorney for Prudence-Bonds Corporation  
(New Corporation)**

**Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.**

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 15, 1939."

424

Notice of appeal by Harry H. Oshrin.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

425

PLEASE TAKE NOTICE, that HARRY H. OSHRIN hereby appeals to the United States Circuit Court of Appeals for the Second Circuit, from an order of this Court made in the within proceedings by Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21st, 1939, insofar as the same approved the report of Special Master James G. Moore, dated November 30, 1938, disallowing the petition of HARRY H. OSHRIN for an allowance herein, both on the law and on the facts applicable to the said HARRY H. OSHRIN's application for allowance.

Dated, March 16th, 1939.

426

Yours, etc.,

HERMAN G. ROBBINS,  
Attorney for Harry H. Oshrin,  
Office & P. O. Address,  
66 Court Street,  
Borough of Brooklyn,  
City of New York.

To:

427

**CHARLES M. McCARTY, Esq.,**  
Attorney for Prudence-Bonds  
Corporation (New Corporation)  
100 East 42nd Street,  
New York, N. Y.

**JAMES F. DEALY, Esq.,**  
Attorney for Reconstruction Finance  
Corporation,  
30 Broad Street,  
New York, N. Y.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office, U. S. District Court, March 21, 1939."

428

**Notice of appeal by President and Directors of the Man-  
hattan Company and Carter, Ledyard & Milburn.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

**[ CAPTION ]**

429

SIRS:

**PLEASE TAKE NOTICE, that President and Directors of the  
Manhattan Company, as Trustee under two certain Trust  
Agreements made by Prudence-Bonds Corporation, one  
dated April 1, 1925 and the other dated March 1, 1927, pro-  
viding for the issue and securing of Prudence-Bonds Fifth  
and Ninth Series, respectively, and Carter, Ledyard and  
Milburn, hereby appeal to the United States Circuit Court**

430 of Appeals, for the Second Circuit, from an order of this Court made in said proceedings by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21st, 1939, whereby, among other things, the Reports of Special Master James G. Moore, on allowances, dated November 30th, 1938 and December 12, 1938, were modified and confirmed as modified, and the applications filed herein by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination, and that said President and Directors of the Manhattan Company and said Carter, 431 Ledyard and Milburn hereby appeal from each and every part of said order, as well as from the whole thereof, both on the law and on the facts, except those portions of said order set forth in the paragraphs thereof, designated "3", "4", "5", "6", "7", "9" and "11".

Dated, New York, N. Y., March 17, 1939.

Yours, etc.

CARTER, LEDYARD & MILBURN

432 Pro se and as attorneys for President and Directors of Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series,

Office & P. O. Address,

No. 2 Wall Street

Borough of Manhattan,

New York, N. Y.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 21, 1939."



**Notice of appeal by Alfred T. Davison.**

433

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

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[ CAPTION ]

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**SIRS:**

PLEASE TAKE NOTICE that the undersigned, Alfred T. Davison, hereby appeals to the Circuit Court of Appeals for the Second Circuit from the order of this Court entered herein on February 21, 1939, approving and confirming, as modified, the reports of Special Master James G. Moore, dated November 30, 1938 and December 12, 1938, and particularly from subdivision marked "7" thereof, in so far as the same denies the application of Alfred T. Davison for an allowance herein.

434

Dated, New York, N. Y. March 18, 1939.

Yours, &c.,

ALFRED T. DAVISON,  
Attorney Pro Se,  
2396 Third Avenue,  
New York, New York.

435

The foregoing Notice of Appeal is stamped "Filed in Clerk's Office U. S. District Court, E. D. N. Y. March 20, 1939."

436

**Notice of appeal by Prudence Bondholders Protective Association.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

[CAPTION]

**SIRS:**

437

PLEASE TAKE NOTICE that the PRUDENCE BONDHOLDERS PROTECTIVE ASSOCIATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, on the facts from that portion designated and included in Paragraph "3" of an order of this Court made in the above entitled proceedings by the Honorable Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 29th, 1939, whereby among other things: (a) there was allowed to the PRUDENCE BONDHOLDERS PROTECTIVE ASSOCIATION only the sum of \$2,500.00, as compensation for all services rendered and all disbursements necessarily incurred by it in these proceedings.

Dated, New York, March 20th, 1939.

Yours, etc.,

438

KADEL, SHIELDS & WEISS, Esqs.,  
Attorneys for Prudence Bondholders  
Protective Association, Intervenor,  
Office & P. O. Address,  
No. 122 East 42nd Street,  
Borough of Manhattan,  
City of New York.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 23, 1939."

Notice of appeal by Leon London, et al.

439

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

PLEASE TAKE NOTICE, that LEON LONDON, ALFRED E. HERZ, 440  
ALEXANDER E. KLUPPT and McKERCHER & LINK, applicants  
for allowances herein, hereby appeal to the United States  
Circuit Court of Appeals, for the Second Circuit, both on  
the law and on the fact, from an order of this court made  
in the above entitled proceedings by the Hon. Robert A.  
Inch, District Judge, and entered in the office of the Clerk  
of this court on February 21st, 1939, whereby among other  
things: (a) the report of Special Master James G. Moore  
on allowances, dated November 30, 1938, was modified and  
confirmed as modified; and (b) the applications of Leon  
London, Alfred E. Herz, Alexander E. Kluppt and McKer-  
cher & Link for allowances herein were denied as is set 441  
forth in paragraph 9 of said order; and (c) from each and  
every part of said order and report, both on the law and  
on the facts as confirms said report and as denies to said

442 Leon London, Alfred E. Herz, Alexander E. Klupt and  
McKercher & Link, their applications for allowances herein.

Dated New York, New York,  
March 20th, 1939

Yours, etc.,

LEON LONDON, Pro se	ALEXANDER E. KLUPT, Pro se
Office & P. O. Address	Office & P. O. Address
21 East 40th Street	2 Lafayette Street
New York, New York	New York, New York

ALFRED E. HERZ, Pro se	McKERCHER & LINK, Pro se
Office & P. O. Address	Office & P. O. Address
277 Broadway	17 John Street
New York, New York	New York, New York

443

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 22, 1939."

Notice of appeal by City-Bank Farmers Trust Company and  
Delafield, Marsh, Porter & Hope.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

444

[CAPTION]

SIRS:

PLEASE TAKE NOTICE that CITY BANK FARMERS TRUST  
COMPANY, as Successor Trustee under the following Trust  
Agreements:

a) Trust Agreement dated August 1, 1922, made  
between the Debtor herein and the Bank of America as



Trustee, securing Prudence-Bonds Corporation First Mortgage-Collateral Bonds, Series AA;

445

b) Trust Agreement dated October 1, 1924, made between the Debtor herein and the Bank of America as Trustee, securing Prudence-Bonds Corporation First Mortgage-Collateral Bonds, Third Series;

c) Trust Agreement dated October 15, 1924, made between the Debtor herein and the Bank of America as Trustee, securing Prudence-Bonds Corporation First Mortgage-Collateral Bonds, Fourth Series;

d) Trust Agreement dated October 1, 1925, made between the Debtor herein and the Bank of America as Trustee, securing Prudence-Bonds Corporation First Mortgage-Collateral Bonds, Seventh Series;

e) Trust Agreement dated August 1, 1929, made between the Debtor herein and the Bank of America National Association as Trustee, securing Prudence-Bonds Corporation First Mortgage-Collateral Bonds, Seventeenth Series;

446

and DELAFIELD, MARSH, PORTER & HOPE, hereby appeal to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made herein by the Honorable ROBERT A. INCH, District Judge, and entered in the office of the Clerk of this Court on the 21st day of February, 1939, whereby, among other things, the reports of Special Master JAMES G. MOORE, on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified and the applications filed herein by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor, and by their respective attorneys appearing herein, for allowances for services and disbursements were held in abeyance for future determination, except in so far as the application of Delafield, Marsh, Porter & Hope was in part granted by a separate order made and entered herein, and that said City Bank Farmers Trust Company and said Delafield, Marsh, Porter & Hope hereby appeal from each and every part of said

447

448 order, as well as from the whole thereof, both on the law and on the facts, except those portions of said order set forth in paragraphs thereof, designated "3", "4", "5", "6", "7", "9" and "11", and except that part of the paragraph designated "8" which denies the application of John M. McGrath and William T. Cowin as Trustees of The Prudence Company, Inc., and except in so far as paragraphs "1", "2" and "10" of said order refer to and grant and confirm the partial allowance to Delafield, Marsh, Porter & Hope recommended in the report of Special Master JAMES G. MOORE dated November 30, 1938, and the separate order signed in respect thereto.

449 Dated, New York, N. Y., March 21, 1939.

Yours etc.,

DELAFIELD, MARSH, PORTER & HOPE

Pro se and as Attorneys for City Bank Farmers Trust Company, as Successor Trustee under Trust Indentures securing Prudence-Bonds Series AA, Third, Fourth, Seventh and Seventeenth Series;

Office and P. O. Address:

20 Exchange Place,

Borough of Manhattan,

New York City

450

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 23, 1939."

**Notice of appeal by Brooklyn Trust Company and Cullen  
& Dykman.**

451

**UNITED STATES DISTRICT COURT,**

**EASTERN DISTRICT OF NEW YORK.**

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**[ CAPTION ]**

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**SIRS:**

PLEASE TAKE NOTICE that Brooklyn Trust Company as Trustee under a Trust Agreement made between the debtor herein and said Brooklyn Trust Company, dated March 1, 1927, securing Prudence Bonds, Eighth Series, and Cullen & Dykman hereby appeal to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made herein by the Honorable Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on the 21st day of February, 1939, whereby, among other things, the reports of Special Master James G. Moore, on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified and the applications filed herein by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor, and by their respective attorneys appearing herein, for allowances for services and disbursements were held in abeyance for future determination, except in so far as the application of Delafield, Marsh, Porter & Hope was in part granted by a separate order made and entered herein, and that said Brooklyn Trust Company and said Cullen & Dykman hereby appeal from each and every part of said order, as well as from the whole thereof, both on the law and on the facts, except those portions of said order set forth in paragraphs thereof, designated "3", "4", "5", "6", "7", "9" and "11", and except that part of the paragraph desig-

452

453

454 nated "8" which denies the application of John M. McGrath and William T. Cowin as Trustees of The Prudence Company, Inc., and except in so far as paragraphs "1", "2", and "10" of said order refer to and grant and confirm the partial allowance to Delafield, Marsh, Porter & Hope recommended in the report of Special Master James G. Moore dated November 30, 1938, and the separate order signed in respect thereto.

Dated: Brooklyn, N. Y., March 21, 1939.

Yours, etc.,

455

CULLEN & DYKMAN,

Pro se and as Attorneys for  
Brooklyn Trust Company as  
Trustee under said Trust  
Agreement securing Pru-  
dence Bonds, Eighth Series;

Office & P. O. Address:

215 Montague Street,

Borough of Brooklyn,

City of New York.

456 The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 23, 1939."



Notice of appeal by Wm. T. Cowin, Trustee of The Prudence Company, Inc. 457

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE that William T. Cowin, Trustee of The Prudence Company, Inc., Debtor in Reorganization under Section 77B of the Bankruptcy Act, hereby appeals to the United States Circuit Court of Appeals, Second Circuit, from an order of this Court made in the above entitled proceedings by Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21st, 1939, particularly from subdivision 8 thereof, in so far as (1) the said order denies the application of John M. McGrath and William T. Cowin, as Trustees of The Prudence Company, Inc., Debtor, for reimbursement of expenses in servicing the bond issues of sixteen series of Prudence-Bonds Corporations, and (2) the said order directs the said Trustees and the Trustees of the eighteen series of first mortgage collateral bonds issued by the Debtor, and each of them, to turn over and deliver to the Prudence-Bonds Corporation, the New Corporation, any and all funds in their possession or in their control and reserved or segre-

460 gated on account of servicing fees or expenses claimed by the said Trustees of The Prudence Company, Inc.

Dated, New York, New York  
March 22nd, 1939.

Yours, etc.

THOMAS CRADOCK HUGHES and EMANUEL CELLER  
Solicitors for Trustee of The Prudence  
Company, Inc.

331 Madison Avenue  
New York City

461 The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 23, 1939."

Notice of appeal by Simpson, Thacher & Bartlett.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

462 SIRs:

PLEASE TAKE NOTICE that SIMPSON THACHER & BARTLETT hereby appeal to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made herein by the Honorable ROBERT A. INCH, District Judge, and entered in the office of the Clerk of this Court on the 21st day of February, 1939, whereby, among other things, the reports of Special Master JAMES G. MOORE, on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified and the applications filed herein by the eleven (11) Corporate Trustees

of the eighteen (18) Series of Bonds issued by the Debtor, and by their respective attorneys appearing herein, for allowances for services and disbursements were held in abeyance for future determination, except in so far as the application of Delafield, Marsh, Porter & Hope was in part granted by a separate order made and entered herein, and that said Simpson Thacher & Bartlett hereby appeal from each and every part of said order, as well as from the whole thereof, both on the law and on the facts, except those portions of said order set forth in paragraphs thereof, designated "3", "4", "5", "6", "7", "9" and "11", and except that part of the paragraph designated "8" which denies the application of John M. McGrath and William T. Cowin as Trustees of The Prudence Company, Inc., and except in so far as paragraphs "1", "2" and "10" of said order refer to and grant and confirm the partial allowance to Delafield, Marsh, Porter & Hope recommended in the report of Special Master JAMES G. MOORE dated November 30, 1938, and the separate order signed in respect thereto.

463

464

Dated, New York, N. Y., March 22, 1939.

Yours, etc.,

SIMPSON THACHER & BARTLETT,  
Office and Post Office Address,  
120 Broadway,  
Borough of Manhattan,  
New York City.

465

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 23, 1939."

466

**Notice of appeal by Manufacturers Trust Company and  
Newman & Bisco.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

[CAPTION]

**SIRS:**

467 **PLEASE TAKE NOTICE that MANUFACTURERS TRUST COM-  
PANY, as Successor Trustee under the following Trust  
Agreements:**

(a) Trust Agreement dated as of February 1, 1928,  
made between Prudence-Bonds Corporation and Chat-  
ham Phenix National Bank and Trust Company, as  
Trustee, securing Prudence-Bonds Corporation First  
Mortgage-Collateral Bonds, Twelfth Series;

(b) Trust Agreement dated as of June 1, 1928,  
made between Prudence-Bonds Corporation and The  
State Bank and Trust Company, as Trustee, securing  
Prudence Bonds Corporation First Mortgage-Collateral  
Bonds, Thirteenth Series;

468

and NEWMAN & BISCO, hereby appeal to the United States  
Circuit Court of Appeals for the Second Circuit, from an  
order of this Court made herein by the Honorable ROBERT  
A. INCH, District Judge, and entered in the office of the  
Clerk of this Court on the 21st day of February, 1939, where-  
by among other things, the reports of Special Master JAMES  
G. MOORE, on allowances, dated November 30, 1938 and  
December 12, 1938, were modified and confirmed as modified  
and the applications filed herein by the eleven (11) Corpor-  
ate Trustees of the eighteen (18) Series of Bonds issued by



the Debtor, and by their respective attorneys appearing herein, for allowances for services and disbursements were held in abeyance for future determination, and that said Manufacturers Trust Company and said Newman & Bisco hereby appeal from each and every part of said order, as well as from the whole thereof, both on the law and on the facts, except those portions of said order set forth in paragraphs thereof, designated "5", "7", "9" and "11", and except that part of the paragraph designated "8" which denies the application of John M. McGrath and William T. Cowin as Trustees of The Prudence Company, Inc. 469

Dated, New York, March 22, 1939.

Yours, etc., 470

NEWMAN & BISCO,  
Pro se and as Attorneys for Manufacturers  
Trust Company, as Successor Trustee  
under Trust Indentures securing Pru-  
dence-Bonds, Twelfth and Thirteenth  
Series;

Office & P. O. Address,  
165 Broadway,  
Borough of Manhattan, ✕  
City of New York

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 24, 1939." 471

472

**Notice of appeal by Lawrence R. Condon.****UNITED STATES DISTRICT COURT,****EASTERN DISTRICT OF NEW YORK.**

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**[CAPTION]**

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**SIRS:**

473

PLEASE TAKE NOTICE, that LAWRENCE R. CONDON, applicant for an allowance herein, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, both on the law and on the facts, from an order of this Court made in the above entitled proceedings by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on February 21st, 1939, whereby among other things: (a) the report of Special Master James G. Moore on allowances, dated November 30, 1938, was modified and confirmed as modified; and (b) the application of Lawrence R. Condon for an allowance herein was denied as is set forth in said order; and (c) from each and every part of said order and report, both on the law and on the facts as confirms said report and as denies to Lawrence R. Condon his application for allowance herein.

Dated, New York, March 22, 1939.

474

Yours &amp;c.,

LAWRENCE R. CONDON, Pro se  
Office & P. O. Address,  
165 Broadway,  
Borough of Manhattan,  
City of New York.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court, E. D. N. Y., March 24, 1939."

Notice of appeal by Archibald Palmer.

475

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

PLEASE TAKE NOTICE that ARCHIBALD PALMER, attorney for the Intervening Bondholders' Committee known as the Mayer Committee, hereby appeals to the United States Circuit Court of Appeals for the Second Circuit from an order of this Court, made in the above entitled proceedings by the Honorable Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on the 21st day of February, 1939, whereby an allowance of \$1,500.00 was granted to ARCHIBALD PALMER, attorney for said Mayer Committee, for services, upon the ground that said allowance is inadequate, and said ARCHIBALD PALMER hereby appeals from each and every part of said order, as well as from the whole thereof, both on the law and the facts.

476

Dated, New York, March 23, 1939.

477

Yours, &c.,

ARCHIBALD PALMER,  
Appellant pro se,  
Office & P. O. Address,  
No. 2 Lafayette Street,  
Borough of Manhattan,  
City of New York.

To:

478

CHARLES M. McCARTY, Esq.,  
Attorney for Prudence Bonds Corporation,  
No. 100 East 42nd Street,  
New York City.

JAMES F. DEALY, Esq.,  
Attorney for Reconstruction Finance Corp.,  
Intervenor,  
No. 30 Broad Street,  
New York City.

479

GEORGE C. WILDERMUTH, Esq.,  
Pro se, and as attorney for Charles H. Kelby  
and Clifford S. Kelsey, as Trustees of  
Prudence Bonds Corporation, Debtor,  
No. 188 Montague Street,  
Brooklyn, New York.

HONORABLE PERCY G. B. GILKES,  
Clerk of United States District Court  
for the Eastern District of New York.

The foregoing Notice of Appeal is stamped "Filed in  
Clerk's Office, U. S. District Court, E. D. N. Y., March 23,  
1939."

480

Notice of appeal by Edward Endelman and Jacob A.  
Freedman.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE that Edward Endelman and Jacob  
A. Freedman, associate counsel to the General Committee



for Prudence Securities, an intervenor in the above-entitled proceedings, hereby appeal to the United States Circuit Court of Appeals, for the Second Circuit, from the order of this Court made in the above-entitled proceedings by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on the 21st day of February, 1939, which order confirmed the intermediate report of Hon. James G. Moore, Special Master, filed November 30th, 1938, and which order further denied the joint application of Edward Endelman and Jacob A. Freedman for an allowance as prayed for in their joint petition verified May 7th, 1938, the said application having been made together with Messrs. Cullen & Dykman, who were associate counsel with appellants herein but who subsequently withdrew from participation in any allowance which might be granted pursuant to said joint application, and which order further denied to the appellants herein, as associate counsel to the General Committee for Prudence Securities any allowance whatsoever; and the said Edward Endelman and Jacob A. Freedman hereby appeal from each and every part of the said order as well as from the whole thereof, both on the law and on the facts.

PLEASE TAKE FURTHER NOTICE, that in view of the fact that various orders were entered with the Clerk of this Court on February 21, 1939, and to avoid confusion, a copy of the order hereby appealed from, is hereto annexed.

Dated, New York, N. Y., March 22nd, 1939.

Yours, etc.,

EDWARD ENDELMAN and  
JACOB A. FREEDMAN,

Attorneys pro se,  
Office & P. O. Address,

299 Broadway,  
Borough of Manhattan,  
City of New York.

To:

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CHARLES M. McCARTY, Esq.,  
Attorney for Prudence-Bonds Corporation,  
100 East 42nd Street,  
Manhattan, New York City.

JAMES F. DEALY, Esq.,  
Attorney for Reconstruction Finance Corporation,  
30 Broad Street,  
Manhattan, New York City.

THOMAS C. HUGHES and EMANUEL CELLER, Esqs.,  
Attorneys for William T. Cowin, Trustee of The  
Prudence Company, Inc.,  
331 Madison Avenue,  
Manhattan, New York City.

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The foregoing Notice of Appeal is stamped "Filed in  
Clerk's office U. S. District Court E. D. N. Y., March 22,  
1939."

**Mandate of Circuit Court of Appeals on July 26, 1939,  
decision.**

UNITED STATES OF AMERICA, ss:

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THE PRESIDENT OF THE UNITED STATES OF AMERICA:

TO THE HONORABLE JUDGE OF THE DIS-  
TRICT COURT OF THE UNITED STATES  
FOR THE EASTERN DISTRICT OF  
NEW YORK.

GREETING:

Whereas, lately in the District Court of the United  
States for the Eastern District of New York, before you or  
some of you, in a cause entitled In the Matter of Prudence

Bonds Corporation, orders were entered in the office of the Clerk of said Court from which appeals were duly taken;

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as by the inspection of the transcript of the record of the said Court, which was brought into the United States Circuit Court of Appeals for the Second Circuit, by virtue of an appeal, agreeably to the Act of Congress, in such case made and provided, fully and at large appears,

and Whereas, in the present term of October, in the year of our Lord one thousand nine hundred and thirty-eight, the said cause came on to be heard before the said United States Circuit Court of Appeals for the Second Circuit, on the said transcript of record, and was argued by counsel.

On consideration Whereof, IT IS HEREBY

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Ordered, Adjudged, and Decreed that on the appeal of Bank of Manhattan Company and others in the same position the order of the District Court deferring consideration of applications for allowances by the corporate trustees and their attorneys is reversed, and the matter is remanded to the District Court with directions to consider the applications and determine the allowances to be given.

You, therefore, are hereby commanded that such further proceeding be had in said cause, in accordance with the decision of this Court as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding.

Witness, the Honorable *Charles Evans Hughes*, Chief Justice of the United States, the 14th day of August, in the year of our Lord one thousand nine hundred and thirty-nine.

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(SEAL)

D. E. ROBERTS  
Clerk of the United States  
Circuit Court of Appeals  
for the Second Circuit

The foregoing paper is stamped "Filed in Clerk's Office, U. S. District Court, E.D.N.Y., August 15, 1939."

## Order of District Court on Mandate.

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## UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

Appeals having been duly taken to the United States Circuit Court of Appeals for the Second Circuit by

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(a) President and Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, Carter, Ledyard & Milburn; City Bank Farmers Trust Company, as Trustee of Prudence Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, and Delafield, Marsh, Porter & Hope; Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, and Cullen & Dykman; Simpson, Thacher & Bartlett; Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series, and Newman and Bisco, from substantially the same parts of an order of the United States District Court, Eastern District of New York, made by Hon. Robert A. Inch, District Judge and entered in the office of the Clerk of said Court on February 21, 1939, whereby, among other things, the reports of Special Master James G. Moore, on allowances, dated November 30, 1938 and December 12, 1938; were modified and confirmed as modified, and the applications filed herein by the eleven (11) Corporate Trustees of the Eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination; and

(b) Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation from said order, and other orders; and

(c) by other parties from said order and other orders; and



Said appeals having been duly heard by the United States Circuit Court of Appeals for the Second Circuit, and the said Court, by its mandate filed herein, August 15, 1939, having on the appeals of the Bank of Manhattan Company and others in the same position, duly reversed so much of said order entered herein February 21, 1939, as deferred consideration of applications for allowances by the said corporate trustees and their attorneys, and having remanded these proceedings to this Court for further proceedings in conformity with the decision and mandate of the United States Circuit Court of Appeals for the Second Circuit; 493

Now, THEREFORE, upon the mandate of the said United States Circuit Court of Appeals for the Second Circuit filed herein the 15th day of August, 1939, on the decision of the said Circuit Court of Appeals, and on motion of Maclay, Lyeth and Williams, attorneys for President and Directors of the Manhattan Company, as Trustee of Prudence Bonds, Fifth and Ninth series, it is hereby 494

ORDERED, ADJUDGED, AND DECREED that:

1. The mandate of the United States Circuit Court of Appeals for the Second Circuit, filed herein August 15, 1939, be and the same hereby is made the order of this Court.

2. So much of the order made by Honorable Robert A. Inch, United States District Judge, entered herein February 21, 1939, as held in abeyance for future determination the applications, filed herein by the eleven corporate trustees of the eighteen series of bonds issued by the debtor and their respective attorneys appearing herein, for allowances for services and disbursements, is reversed in accordance with said mandate. 495

Brooklyn, N. Y., September 18, 1939

ROBERT A. INCH  
United States District Judge  
Eastern District of New York

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**Order of Nov. 6, 1939 fixing allowances to corporate trustees, etc.**

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, City and State of New York, on the 6th day of November, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

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[CAPTION]

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This Court having heretofore and by orders dated March 11, 1936, May 6, 1936, July 21, 1937, June 3, 1938, June 6, 1938 and eighteen (18) separate orders each dated January 18, 1938, having referred the consideration of the persons and corporations to whom allowances for services or expenses should be made under the Plans of Reorganization confirmed in these proceedings and the provisions of Section 77B of the Bankruptcy Act, together with the amounts thereof, to Special Master James G. Moore, for written report and recommendation to this Court with his opinion thereon, and proceedings with respect to such matter having, thereafter, been duly had before the said Special Master and the said Special Master having filed herein an Intermediate Report dated November 30, 1938, passing upon the applications for allowances of all of the applicants herein except the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor, and their respective attorneys appearing herein, and by a notice dated November 30, 1938, having given notice of the filing of said Report, and Prudence Securities Advisory Group, one of the intervenors herein, by notice of motion dated December 1, 1938, having moved herein for an order passing upon said

Intermediate Report, taking such action thereon as this Court might deem advisable and granting such other and further relief as to this Court might seem just and proper, and said motion having duly come on to be heard before this Court on the 9th day of December, 1938, and having been duly adjourned to the 16th day of December, 1938, and said Special Master having filed herein an Intermediate Report dated December 12, 1938, passing upon the applications for allowances of the said eleven (11) Corporate Trustees and their respective attorneys appearing herein, and by a notice dated December 12, 1938, having given notice of the filing of said Report and notice that said Report would be handed up to this Court on the 16th day of December, 1938, for consideration in conjunction with said Special Master's Report dated November 30, 1938, then and there before this Court for consideration and the consideration of said two (2) Reports having duly come on to be heard on the 16th day of December, 1938; and this Court having, on various dates during the month of February, 1939, made several orders passing upon said Special Master's Reports, including an order dated February 21, 1939, whereby, among other things, it was adjudged and decreed, that there should be held in abeyance for future consideration the application filed herein by the Trustees of New York Investors, Inc., for an allowance for disbursements and the applications filed herein by the eleven (11) respective Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor, and by their respective attorneys appearing herein, for allowances for services and disbursements, together with the objections and exceptions filed herein in respect of said applications and the Reports of the Special Master pertaining thereto, except insofar as the application of Messrs. Delafield, Marsh, Porter & Hope, attorneys for City Bank Farmers Trust Company, as Trustee of Prudence Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, had been granted in part by separate order made and entered herein, and various appeals from said

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502 orders on allowances having been duly taken to the United States Circuit Court of Appeals, for the Second Circuit, by various parties in interest herein, as more specifically appears in the record of said appeals, and said appeals having been duly heard by said United States Circuit Court of Appeals and said Court by its mandate filed herein August 15, 1939, having on the appeals of Bank of Manhattan Company and others in the same position, duly reversed so much of the aforesaid order of February 21, 1939, as deferred consideration of applications for allowances by the said Corporate Trustees and their attorneys, and having remanded these proceedings to this Court for further proceedings in conformity with the decision and mandate of the said United States Circuit Court of Appeals, and this  
503 Court by order made and entered herein on September 18, 1939, having ordered, that the said mandate of the said United States Circuit Court of Appeals be made the order of this Court;

Now, upon the said Intermediate Reports of Special Master James G. Moore dated November 30, 1938 and December 12, 1938, and the applications for allowances and the objections and exceptions thereto and the exhibits and papers and the record of the proceedings had before said Special Master in respect of said Reports, including the papers and exhibits set forth in "Appendix A" of each of said Reports, and upon the exceptions and objections and other papers filed herein in respect of said Reports and recited in the aforesaid order dated February 21, 1939, and after hearing the attorneys for various parties in interest in support of and in opposition to the confirmation of said Reports of Special Master James G. Moore, and in support of and in opposition to the various exceptions and objections filed in respect of said Reports, and upon the above mentioned orders of this Court, the opinion of this Court, dated February 1, 1939, by which it was determined that it was practicable to apply the provisions of Chapter X,  
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Article 13, of the Bankruptcy Act as amended by the Chandler Act (11 U. S. C. A. Section 341 et seq) to all applications for allowances, and the opinion of this Court dated March 15, 1939, and after due consideration of the applications for allowances by the said Corporate Trustees and their attorneys and by the Trustees of New York Investors, Inc., and due deliberation having been had and upon filing the opinion of this Court dated October 26, 1939, it is

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ORDERED, ADJUDGED AND DECREED, that

1. The said Report of Special Master James G. Moore, dated November 30, 1938, and filed herein, insofar as said Report relates to the application of the Trustees of New York Investors, Inc., for an allowance, of reimbursement for expenses be and the same hereby is, in all respects approved and confirmed; the findings of fact and conclusions of law contained in said Report in respect of said application, be and the same hereby are, made the findings of fact and conclusions of law of this Court; the objections and exceptions of the Trustees of New York Investors, Inc., to the said Report, be and the same hereby are, in all respects overruled and dismissed, and the said application of the Trustees of New York Investors, Inc., be and the same hereby is, in all respects denied;

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2. The said Report of Special Master James G. Moore, dated December 12, 1938, and filed herein, be and the same hereby is, in all respects approved and confirmed and the findings of fact and conclusions of law contained in said Report, be and the same hereby are, made the findings of fact and conclusions of law of this Court, except as otherwise modified by this order;

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3. All objections and exceptions to said Report dated December 12, 1938, be and the same hereby are, in all respects overruled and dismissed, except insofar as said objections and exceptions are sustained by this order;

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4. The sum of \$3,770.76, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Guaranty Trust Company of New York, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Series A, either in these proceedings or otherwise, for which said Guaranty Trust Company of New York has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Guaranty Trust Company of New York, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$1,500, and payment of the balance of said sum of \$3,770.76, to wit, the sum of \$2,270.76, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said Guaranty Trust Company of New York, as Trustee of Prudence-Bonds, Series A, and until further order of this Court;

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5. The sum of \$10,103.47, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Davis, Polk, Wardwell, Gardiner & Reed, for all services rendered and disbursements necessarily incurred by them as attorneys for Guaranty Trust Company of New York, as Trustee of Prudence-Bonds, Series A, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Messrs. Davis, Polk, Wardwell, Gardiner & Reed, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$2,603.47, and payment of the balance of said sum of \$10,103.47, to wit, the sum of \$7,500, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the ac-

count filed herein by said Guaranty Trust Company of New York, as Trustee of Prudence-Bonds, Series A, or until further order of this Court; 511

6. The sum of \$61,214.34, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to City Bank Farmers Trust Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, either in these proceedings or otherwise, for which said City Bank Farmers Trust Company has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said City Bank Farmers Trust Company, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$6,829.60, and payment of the balance of said sum of \$61,214.34, to wit, the sum of \$54,384.74, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed herein by said City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, and until further order of this Court; 512

7. The sum of \$63,632.81, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Delafield, Marsh, Porter & Hope, for all services rendered and disbursements necessarily incurred by them as attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated or for which an allowance has not heretofore been granted by order made and entered herein on February 21, 1939, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed 513



514 to pay to said Messrs. Delafield, Marsh, Porter & Hope, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$13,632.81, and payment of the balance of said sum of \$63,632.81, to wit, the sum of \$50,000, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed hereby by said City Bank Farmers Trust Company as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, or until further order of this Court;

515 8. The sum of \$59,714.35, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to President & Directors of the Manhattan Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Fifth and Ninth Series, either in these proceedings or otherwise for which said President & Directors of the Manhattan Company, has not heretofore been compensated, and said President & Directors of the Manhattan Company, be and hereby is, authorized and directed to pay to itself, 41 days after the entry of this order, out of Fifth and Ninth Series Trust Funds in its possession for such purpose, the sum of \$3,380.94, pro rata on the basis of Fifth and Ninth Series bonds outstanding on June 29, 1934, the date of the commencement of these proceedings, and payment of the balance of said sum of \$59,714.35, to wit, the sum of \$56,333.41, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed herein by said President & Directors of the Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, and until further order of this Court;

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9. The sum of \$56,000, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Carter, Ledyard & Milburn, for all services ren-



dered and disbursements necessarily incurred by them as attorneys for President & Directors of the Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and said President & Directors of the Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, be and hereby is, authorized and directed to pay to said Messrs. Carter, Ledyard & Milburn, 41 days after the entry of this order, out of Fifth and Ninth Series Trust Funds in its possession for such purpose, the sum of \$6,000, pro rata, on the basis of Fifth and Ninth Series bonds outstanding on June 29, 1934, the date of the commencement of these proceedings, and payment of the balance of said sum of \$56,000, to wit, the sum of \$50,000, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed herein by said President & Directors of the Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, or until further order of this Court;

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10. The sum of \$20,927.47, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Central Hanover Bank and Trust Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Sixth and Eighteenth Series, either in these proceedings or otherwise for which said Central Hanover Bank and Trust Company, has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Central Hanover Bank and Trust Company, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$5,000, and payment of the balance of said sum of \$20,927.47, to wit, the sum of \$15,927.47, be and hereby is, withheld pending disposition of the proceedings herein for the

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judicial settlement and approval of the accounts filed herein by said Central Hanover Bank and Trust Company, as Trustee of Prudence-Bonds, Sixth and Eighteenth Series, and until further order of this Court;

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11. The sum of \$46,491.50, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Larkin, Rathbone & Perry, for all services rendered and disbursements necessarily incurred by them as attorneys for Central Hanover Bank and Trust Company, as Trustee of Prudence-Bonds, Sixth and Eighteenth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Messrs. Larkin, Rathbone & Perry, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$6,491.50, and payment of the balance of said sum of \$46,491.50, to wit, the sum of \$40,000, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed herein by said Central Hanover Bank and Trust Company, as Trustee of Prudence-Bonds, Sixth, and Eighteenth Series, or until further order of this Court;

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12. The sum of \$23,062.69, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Brooklyn Trust Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Eighth Series, either in these proceedings or otherwise, for which said Brooklyn Trust Company has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Brooklyn Trust Company, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$2,779.51, and

payment of the balance of said sum of \$23,062.69, to wit, the sum of \$20,283.18, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, and until further order of this Court; 523

13. The sum of \$31,153.85, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Cullen & Dykman, for all services rendered and disbursements necessarily incurred by them as attorneys for Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Messrs. Cullen & Dykman, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$6,153.85, and payment of the balance of said sum of \$31,153.85, to wit, the sum of \$25,000, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, or until further order of this Court; 524

14. The sum of \$1,626.08, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to State Street Trust Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Tenth Series, either in these proceedings or otherwise, for which said State Street Trust Company has not heretofore been compensated, and payment of said sum, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said State Street Trust Company, as Trustee of Prudence-Bonds, Tenth Series, and until further order of this Court; 525



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15. The sum of \$6,403.76, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Peabody, Arnold, Batchelder & Luther, for all services rendered and disbursements necessarily incurred by them as attorneys for State Street Trust Company, as Trustee of Prudence-Bonds, Tenth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and payment of said sum, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said State Street Trust Company, as Trustee of Prudence-Bonds, Tenth Series, or until further order of this Court;

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16. The sum of \$1,000, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Chicago Title and Trust Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Eleventh Series, either in these proceedings or otherwise, for which said Chicago Title and Trust Company has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Chicago Title and Trust Company, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the said sum of \$1,000;

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17. The sum of \$15,972.75, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Simpson Thacher & Bartlett and Sonnenschein, Berkson, Lautmann, Levinson & Morse, for all services rendered and disbursements necessarily incurred by them as attorneys for Chicago Title and Trust Company, as Trustee of Prudence-Bonds, Eleventh Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized



and directed to pay to said Messrs. Simpson Thacher & Bartlett and Sonnenschein, Berkson, Lautmann, Levinson & Morse, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$3,472.75, and payment of the balance of said sum of \$15,972.75, to wit, the sum of \$12,500, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said Chicago Title and Trust Company, as Trustee of Prudence-Bonds, Eleventh Series, or until further order of this Court;

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18. The sum of \$47,411.72, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance to Manufacturers Trust Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series, either in these proceedings or otherwise, for which said Manufacturers Trust Company has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Manufacturers Trust Company, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$6,236.92, and payment of the balance of said sum of \$47,411.72, to wit, the sum of \$41,174.80, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed herein by said Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series, and until further order of this Court;

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19. The sum of \$32,799.57, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Newman & Bisco, for all services rendered and disbursements necessarily incurred by them as attorneys for Manufacturers Trust Company, as Trustee of Prudence-

532 Bonds, Twelfth and Thirteenth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Messrs. Newman & Bisco, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$5,299.57, and payment of the balance of said sum of \$32,799.57, to wit, the sum of \$27,500, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed herein by said Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series, or until further order of  
533 this Court;

20. The sum of \$25,092.06, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance to The Chase National Bank of the City of New York, for all services rendered and disbursements necessarily incurred by it as Trustee of Prudence-Bonds, Fourteenth Series, either in these proceedings or otherwise, for which said The Chase National Bank of the City of New York has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said The Chase National Bank of the City of New York, 41 days after the entry of this order, out  
534 of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$3,536.13, and payment of the balance of said sum of \$25,092.06, to wit, the sum of \$21,555.93, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said The Chase National Bank of the City of New York, as Trustee of Prudence-Bonds, Fourteenth Series, and until further order of this Court;

21. The sum of \$22,057.01, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to

Messrs. Milbank, Tweed & Hope, for all services rendered and disbursements necessarily incurred by them as attorneys for The Chase National Bank of the City of New York, as Trustee of Prudence-Bonds, Fourteenth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Messrs. Milbank, Tweed & Hope, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$4,557.01, and payment of the balance of said sum of \$22,057.01, to wit, the sum of \$17,500, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said The Chase National Bank of the City of New York, as Trustee of Prudence-Bonds, Fourteenth Series, or until further order of this Court;

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22. The sum of \$20,445.28, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Chemical Bank & Trust Company, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Fifteenth Series, either in these proceedings or otherwise, for which said Chemical Bank & Trust Company has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Chemical Bank & Trust Company, 41 days after the entry of this order, out of the fund in its possession, for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$7,899.99, and payment of the balance of said sum of \$20,445.28, to wit, the sum of \$12,545.29, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said Chemical Bank & Trust Company, as Trustee of Prudence-Bonds, Fifteenth Series, and until further order of this Court;

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538 23. The sum of \$25,620.94, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Wright, Gordon, Zachry & Parlin, for all services rendered and disbursements necessarily incurred by them as attorneys for Chemical Bank & Trust Company, as Trustee of Prudence-Bonds, Fifteenth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Messrs. Wright, Gordon, Zachry & Parlin, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$5,620.94, and payment of the balance of said sum of 539 \$25,620.94, to wit, the sum of \$20,000, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said Chemical Bank & Trust Company, as Trustee of Prudence-Bonds, Fifteenth Series, or until further order of this Court;

540 24. The sum of \$27,074.29, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to The Marine Midland Trust Company of New York, for all services rendered and disbursements necessarily incurred by it, as Trustee of Prudence-Bonds, Sixteenth Series, either in these proceedings or otherwise, for which said The Marine Midland Trust Company of New York has not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said The Marine Midland Trust Company of New York, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$5,295.06, and payment of the balance of said sum of \$27,074.29, to wit, the sum of \$21,779.23, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed



herein by said The Marine Midland Trust Company of New York, as Trustee of Prudence-Bonds, Sixteenth Series, and until further order of this Court; 541

25. The sum of \$24,522.50, be and hereby is, fixed as fair and reasonable compensation, as and for an allowance, to Messrs. Sullivan & Cromwell, for all services rendered and disbursements necessarily incurred by them as attorneys for The Marine Midland Trust Company of New York, as Trustee of Prudence-Bonds, Sixteenth Series, either in these proceedings or otherwise, for which said attorneys have not heretofore been compensated, and Prudence-Bonds Corporation, the New Corporation, be and hereby is, authorized and directed to pay to said Messrs. Sullivan & Cromwell, 41 days after the entry of this order, out of the fund in its possession for such purpose, pursuant to the order made and entered herein on April 5, 1938, the sum of \$4,522.50, and payment of the balance of said sum of \$24,522.50, to wit, the sum of \$20,000, be and hereby is, withheld pending disposition of the proceedings herein for the judicial settlement and approval of the account filed herein by said The Marine Midland Trust Company of New York, as Trustee of Prudence-Bonds, Sixteenth Series, or until further order of this Court; 542

26. The sums herein directed to be paid to the respective Corporate Trustees and their attorneys, are awarded as compensation for services rendered and disbursements incurred "IN CONNECTION WITH THE PLANS AND THE PROCEEDINGS", as recommended by the Special Master in "PART I" of his Report dated December 12, 1938, and the sums withheld pending further order of this Court as hereinabove provided, are classified as compensation for services and disbursements which are included in "LIENS UNDER TRUST AGREEMENTS" of the Corporate Trustees, as recommended by the Special Master in "PART II" of his said Report; and 543

27. This Court reserves and retains jurisdiction to give such further authorizations and directions as may be neces-

544 sary to carry out this order and to make effective, consummate and carry out the Amended Plans of Reorganization approved and confirmed herein, and generally to determine any and all matters pertaining to these proceedings or to the Plans of Reorganization and not determined heretofore or by this order.

ROBERT A. INCH  
U. S. D. J. E. D. N. Y.

Order to show cause of District Court on motion by R. F. C. for leave to appeal from order of Nov. 6, 1939.

545 UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

Upon the annexed petition of Reconstruction Finance Corporation, duly verified the 8th day of November, 1939, and this court being fully advised, it is

546 ORDERED, that the Debtor, the Trustees of the Debtor, and all intervenors and applicants for allowances in the above entitled proceedings, or their respective attorneys appearing herein, show cause before the undersigned, at the Courthouse, Post-Office Building, Washington Street, Borough of Brooklyn, City and State of New York, on the 17th day of November, 1939 at two o'clock in the afternoon of that day or as soon thereafter as counsel can be heard, why an order should not be made and entered herein granting leave to Reconstruction Finance Corporation, an intervenor herein, to take and prosecute an appeal to the United States Circuit Court of Appeals for the Second Circuit, from an order duly made and entered herein on the 6th day of November, 1939, by which, among other things, the re-

port of Special Master James G. Moore dated December 12, 1938 was in all respects confirmed and allowances to the corporate trustees and their attorneys, were fixed, and why said Reconstruction Finance Corporation should not be granted such other and further relief as may be just and proper in the premises; AND sufficient cause appearing therefor, it is further

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ORDERED, that service of this order and the petition upon which it is granted, by mailing copies thereof to the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in these proceedings, or to their respective attorneys or solicitors appearing herein, on the 13th day of November, 1939, shall be deemed good and sufficient service.

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Dated, New York, N. Y., November 8, 1939

ROBERT A. INCH

U. S. D. J.

Petition of R. F. C. for leave to appeal from order of  
Nov. 6, 1939.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

549

PETITION OF RECONSTRUCTION FINANCE CORPORATION  
AN INTERVENOR HEREIN, FOR LEAVE TO APPEAL

*To the Honorable Judges of the District Court of the  
United States for the Eastern District of New York:*

The petition of Reconstruction Finance Corporation respectfully shows as follows:

(1) The petitioner is a corporation duly organized and existing under and pursuant to an Act of Congress approved

550 January 22, 1932, all of the stock of which is beneficially owned by the United States. It owns the entire outstanding stock of the Debtor herein, and has been duly authorized to intervene generally herein.

551 (2) Heretofore there was duly referred, for written report and recommendation, to James G. Moore, Esq., Special Master, by orders made and filed herein, the matter of the persons and corporations to whom allowances for services or expenses should be made under the plans of reorganization confirmed herein and the provisions of 77B of the Bankruptcy Act. Pursuant to such orders numerous applications for allowances for services and disbursements were filed with said Special Master and petitioner thereafter filed an answering affidavit and objections in opposition to the granting of substantially all of said applications for allowances.

552 (3) Thereupon and after due consideration of the applications and answers and other proofs filed in opposition to such applications, Special Master Moore filed herein an intermediate report dated November 30, 1938 wherein he recommended that allowances for services and disbursements be granted in the aggregate sum of \$462,014.08 to various applicants other than corporate trustees and their counsel and recommended that other applications be denied *in toto*. In such report, he further reserved for future determination the applications for allowances filed by the eleven corporate trustees of the outstanding eighteen series of the Debtor's bonds and their counsel. Subsequently, however, and by an additional report dated December 12, 1938 and duly filed herein, Special Master Moore recommended that allowances, for services and disbursements in the aggregate sum of \$626,862.41 be granted to such eleven corporate trustees and their counsel.

(4) Both of said reports came on for consideration by this court at a hearing duly held on December 16, 1938, and



petitioner by its counsel appeared in opposition to the confirmation or approval thereof.

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(5) Thereafter and under date of February 1, 1939, Judge Inch, the District Judge, before whom these proceedings are pending and before whom the aforesaid hearing on the Special Master's abovementioned reports were held, filed an opinion approving with some modifications the Special Master's Report of November 30, 1938; and reserving for future consideration the application of the Trustees of New York Investors for reimbursement of \$50,954.64 expended by them under order of Judge Inch to defray various reorganization expenses. By his decision, Judge Inch also reserved for future determination, the allowances recommended by the Special Master in his report dated December 12, 1938, in the aggregate sum of \$626,862.41 for the above referred to eleven corporate trustees and counsel.

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(6) Fourteen orders were entered on February 14, February 16 and February 21, 1939, respectively, in accordance with the opinion of Judge Inch dated February 1, 1939, directing the payment of allowances awarded on various applications and reserving for future consideration the applications of the eleven corporate trustees and their counsel as well as the application of the Trustees of New York Investors for an allowance for disbursements.

(7) RFC and the New Corporation after leave duly granted by this court appealed from the above fourteen orders granting allowances amounting to \$478,912.12 and from that part of one of said orders which reserved for future determination the applications of the eleven corporate trustees and their counsel. Other parties in interest also appealed from various of said orders or parts thereof.

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(8) On or about the 15th day of August, 1939, the Circuit Court of Appeals issued its mandate reversing that part of one of the orders of February 21, 1939 by which this court reserved for future consideration the applications of

556 the eleven corporate trustees and their counsel. Said mandate also directed that this court pass upon the applications of the corporate trustees and their counsel and further ordered that when its directions with respect to passing upon the applications of corporate trustees and their counsel had been complied with, a supplemental record be filed showing such subsequent proceedings. The Circuit Court of Appeals reserved decision on the balance of the orders so appealed from. Such mandate of the Circuit Court of Appeals was duly made the order of this court by order herein made on the 18th day of September, 1939. Thereafter and on October 26, 1939 Judge Inch handed down an opinion confirming in all respects the report of Special Master James G. Moore dated December 12, 1938, and on 557 the 6th day of November, 1939 the order now desired to be appealed from was made and entered herein, carrying out the terms of said decision.

(9) Petitioner, feeling itself aggrieved by the order last mentioned intends, not only to file the supplemental record on the appeals now pending before the Circuit Court of Appeals as aforesaid, as directed by that Court, but also to appeal from the said order. Petitioner is advised by counsel that this will be necessary in order that the Circuit Court of Appeals if it should desire to do so, will have jurisdiction to modify the allowances to corporate trustees. 558 Petitioner believes in view of the total amounts awarded to applicants for allowances herein and the total cost of this reorganization, the amounts awarded to corporate trustees and counsel are unreasonable and excessive in the circumstances and should be further drastically reduced.

(10) As part of this application petitioner hereby respectfully refers to its petition herein duly verified March 10, 1939 upon which it was granted leave to appeal from the other orders on allowances herein and makes said petition a part hereof with the same force and effect as if the matters therein set forth were repeated here at length. The

same reasons for which petitioner asked leave to appeal from said orders are applicable here as reasons why this application should be granted and petitioner does not desire to burden this court with a repetition thereof in this application. 559

(11) An order to show cause is requested so that petitioners may proceed promptly with the appeal it intends to take and have the same considered by the Circuit Court of Appeals at the same time it passes upon the appeals as to which it has reserved decision as aforesaid.

(12) No previous application has been made to any court or judge for the relief herein requested.

Wherefore, petitioner respectfully prays that an order in the form submitted herewith be made herein requiring the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in the above entitled proceeding or their respective attorneys appearing herein, to show cause at a time and place to be fixed in said order, why leave should not be granted to it to appeal from the aforesaid order of this court dated November 6, 1939, passing upon applications for allowance of the corporate trustees and their attorneys, and why petitioner should not be granted such other and further relief as may be just and proper in the premises. 561

Dated: New York, November 8, 1939. 561

RECONSTRUCTION FINANCE CORPORATION

By JEROME THRALLS

Special Representative

JAMES F. DEALY

Attorney for Reconstruction

Finance Corporation

30 Broad Street

Borough of Manhattan

New York, N. Y.

(Verified November 8, 1937.)

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Order granting R. F. C. leave to appeal from order of  
Nov. 6, 1939.

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court House thereof, in the Borough of Brooklyn, County of Kings, City and State of New York, on the 20th day of November, 1939.

Present: Hon. ROBERT A. INCH, District Judge.

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[CAPTION]

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Reconstruction Finance Corporation, an intervenor herein, having duly moved this Court by order to show cause dated November 8, 1939, for an order granting to it leave to take and prosecute an appeal to the United States Circuit Court of Appeals for the Second Circuit from an order duly made and entered herein on the 6th day of November, 1939, referred to in the said order to show cause and the petition of Reconstruction Finance Corporation duly verified November 8, 1939, upon which said order to show cause was based, and said application having duly come on to be heard before this Court on the 17th day of November, 1939,

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Now, on reading and filing the aforesaid order to show cause dated November 8, 1939, the petition of Reconstruction Finance Corporation, duly verified November 8, 1939, upon which the same was based, together with proof of the due service thereof in accordance with the provisions of said order to show cause, the affidavit of Charles H. Kelby duly verified the 14th day of March, 1939, and the petition of Reconstruction Finance Corporation duly verified March 15, 1939, and after hearing James F. Dealy, Esq., counsel for said Reconstruction Finance Corporation and Charles M. McCarty, Esq., attorney for Prudence-Bonds Corpora-



tion (New Corporation), in support of said application and there being no opposition thereto, and due deliberation having been had thereon, it is hereby

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ORDERED, that the aforesaid application of Reconstruction Finance Corporation be and the same hereby is in all respects granted; and it is further

ORDERED, that Reconstruction Finance Corporation, an intervenor herein, be and it hereby is granted leave of this Court to take and prosecute an appeal to the United States Circuit Court of Appeals for the Second Circuit from all or any part of the order of this Court duly made and entered herein on the 6th day of November, 1939, by which, among other things, the report of Special Master James G. Moore dated December 12, 1938 was in all respects confirmed and allowances to the corporate trustees and their attorneys, were fixed.

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ROBERT A. INCH  
U. S. D. J.

Notice of appeal by R. F. C. from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

567

SIRS:

PLEASE TAKE NOTICE, that RECONSTRUCTION FINANCE CORPORATION, an intervenor herein, hereby appeals to the United States Circuit Court of Appeals for the Second Circuit, both on the law and on the facts, from an order of this Court made herein by Hon. Robert A. Inch, dated November 6,

568 1939 and entered in the office of the Clerk of this Court on the 6th day of November, 1939, whereby, among other things, the report of Special Master James G. Moore dated December 12, 1938 and filed herein was in all respects confirmed and allowances to the corporate trustees and their attorneys were fixed; and that said Reconstruction Finance Corporation hereby appeals from each and every part of said order as well as from the whole thereof, except that portion of said order designated Paragraph "(1)" thereof which confirms the report of said Special Master dated November 30, 1938 insofar as said report relates to the application of the Trustees of New York Investors, Inc. for an allowance and except that portion of said order designated Paragraph "(27)" thereof by which the Court reserved jurisdiction to give such authorizations and directions as might be necessary to carry out said order and to make effective the consummation of the Amended Plans of Reorganization, and except those portions of said order which in certain respects deferred the payments of such compensation to the corporate trustees and their counsel.

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Dated, New York, N. Y.  
November 27, 1939.

Yours, etc.,

JAMES F. DEALY  
Attorney for Reconstruction Finance  
Corporation, Intervenor.

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Office and Post Office Address:

30 Broad Street,  
New York, N. Y.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 30, 1939."

**Order to show cause of District Court on motion by Prudence-Bonds Corporation for leave to appeal from order of Nov. 6, 1939.**

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**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

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**[ CAPTION ]**

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Upon the annexed petition of PRUDENCE-BONDS CORPORATION, the New Corporation formed pursuant to the Plans of Reorganization approved and confirmed in the above entitled proceedings, duly verified the 8th day of November, 1939, and upon all the papers filed and proceedings heretofore had herein,

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LET the Debtor and all intervenors, applicants for allowances herein and persons interested in the above entitled proceedings as creditors or stockholders of the Debtor herein or otherwise, or their respective attorneys appearing herein, show cause before me at a Stated Term of this Court, to be held in Room 312, at the United States Court House, at the corner of Washington and Johnson Streets, in the Borough of Brooklyn, City and State of New York, on the 17th day of November, 1939, at two o'clock in the afternoon of said day, or as soon thereafter as counsel can be heard, why an order should not be made and entered herein, granting leave to your petitioner to appeal from the order made and entered herein on November 6, 1939, and described in paragraph "33" of said petition, and for such other and further relief as may be just and proper in the premises.

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Sufficient cause appearing therefor, LET service of this order and the petition upon which it was granted, by service of copies thereof, personally or by mail, upon the Debtor, the Trustees of the Debtor, and all intervenors and appli-

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cants for allowances herein, or upon their respective attorneys appearing herein, on or before the 13th day of November, 1939, be deemed sufficient service and notice of this application.

Dated: Brooklyn, N. Y., November 8, 1939.

ROBERT A. INCH  
U. S. D. J. E. D. N. Y.

575

**Petition of Prudence-Bonds Corporation for leave to appeal  
from order of Nov. 6, 1939.**

**UNITED STATES DISTRICT COURT,**

**EASTERN DISTRICT OF NEW YORK.**

**[ CAPTION ]**

*To the Honorable the Judges of the United States District  
Court for the Eastern District of New York:*

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The petition of PRUDENCE-BONDS CORPORATION, respectfully shows:

1. That your petitioner is a domestic corporation duly organized under the Stock Corporation Law and Section 9(b) of the General Corporation Law of the State of New York, and is the New Corporation formed pursuant to the Amended Plans of Reorganization, approved and confirmed in the above entitled proceedings.

2. Upon information and belief, that on June 29, 1934, the Debtor filed its petition for reorganization under Sec-



tion 77B of the Bankruptcy Act; that by order made and entered herein on the same day said petition was approved as properly filed and Charles H. Kelby and Clifford S. Kelsey were appointed Temporary Trustees of the Debtor; that by order made and entered herein on July 31, 1934, the appointment of said Trustees was made Permanent and that said Trustees duly qualified and are still acting in that capacity.

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3. Upon information and belief, that at the time of filing its petition for reorganization, the Debtor had outstanding eighteen (18) separate Series of First Mortgage-Collateral Bonds, payable to the bearer or registered holder thereof, aggregating in principal amount the sum of approximately \$56,000,000.00; that each of said Series of Bonds was secured by a Trust Agreement made between the Debtor and a Bank or Trust Company, under which mortgages and mortgage bonds and other securities were pledged by the Debtor for the equal and pro rata benefit and security of the holders of said bonds, which securities constitute the collateral underlying said Series of Bonds, and that the names of the Corporate Trustees or Successor Corporate Trustees at the time said proceedings were instituted and the respective dates of said Trust Agreements are as follows:

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	<i>Series</i>	<i>Trust Agreement dated</i>	<i>Corporate Trustee</i>
580	A	January 15, 1920	Guaranty Trust Company of New York
	AA	August 1, 1922	City Bank Farmers Trust Company
	Third	October 1, 1924	City Bank Farmers Trust Company
	Fourth	October 15, 1924	City Bank Farmers Trust Company
	Fifth	April 1, 1925	President & Directors of The Manhattan Company
	Sixth	July 1, 1925	Central Hanover Bank and Trust Company
581	Seventh	October 1, 1925	City Bank Farmers Trust Company
	Eighth	March 1, 1927	Brooklyn Trust Company
	Ninth	March 1, 1927	President & Directors of The Manhattan Company
	Tenth	May 1, 1927	State Street Trust Company
	Eleventh	December 1, 1927	Chicago Title & Trust Company
	Twelfth	February 1, 1928	Manufacturers Trust Company
	Thirteenth	June 1, 1928	Manufacturers Trust Company
582	Fourteenth	September 15, 1928	The Chase National Bank of The City of New York
	Fifteenth	October 1, 1928	Chemical Bank & Trust Company
	Sixteenth	February 1, 1929	The Marine Midland Trust Company of New York
	Seventeenth	August 1, 1929	City Bank Farmers Trust Company
	Eighteenth	February 2, 1931	Central Hanover Bank and Trust Company

4. Upon information and belief that at the time of filing its petition for reorganization, the Debtor also had outstanding an issue of Mortgage Participation Certificates known as the Seneca Issue. 583

5. Upon information and belief, that the outstanding bonds of said eighteen (18) Series of Bonds, are held by approximately 35,000 bondholders residing in the State of New York, and elsewhere in many parts of the United States and in foreign countries.

6. Upon information and belief, that by order made and entered herein on March 11, 1936, an Amended Plan of Reorganization for the Debtor's Seneca Issue of Mortgage Participation Certificates was approved and confirmed. 584

7. Upon information and belief, that by order made and entered herein on May 6, 1936, an Amended Plan of Reorganization for Prudence-Bonds, Fifteenth Series was approved and confirmed.

8. Upon information and belief, that by order made and entered herein on April 27, 1937, this Court found, that the Debtor herein was insolvent and that in respect of each of the eighteen (18) Series of Bonds, the fair value of the collateral pledged to secure each Series was less than the principal amount of the outstanding bonds and accrued unpaid interest thereon and that the Debtor, its stockholders and general creditors have no equity in the pledged collateral in any Series of Bonds. 585

9. Upon information and belief, that by eighteen (18) orders made and entered herein, on January 18, 1938, Amended Plans of Reorganization for Prudence-Bonds, Series A, Series AA, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Sixteenth, Seventeenth and Eighteenth Series and a so-called Amended General Plan of Reorganization, were each approved and confirmed.

586 10. Upon information and belief, that the so-called Amended General Plan of Reorganization, provides, in part, for the formation of a New Corporation in accordance with Section 9(b) of the General Corporation Law of the State of New York; that all of the capital stock of such New Corporation be deposited under and subject to a Voting Trust Agreement; that the Voting Trustees be appointed by this Court and for distribution of all Voting Trust Certificates or Voting Trust Scrip, pro rata, to the holders of bonds of the eighteen (18) Series of Bonds issued by the Debtor.

587 11. Upon information and belief, that in accordance with the Amended Plans of Reorganization approved and confirmed as aforesaid, your petitioner, the New Corporation provided for by the so-called Amended General Plan of Reorganization, was organized under the Stock Corporation Law and Section 9(b) of the General Corporation Law of the State of New York and that its certificate of incorporation approved by this Court, was filed in the office of the Secretary of State, Albany, N. Y., on February 4, 1938.

588 12. Upon information and belief, that pursuant to the above mentioned orders, dated March 11, 1936, May 6, 1936 and January 18, 1938, the supervision of the consummation of said Amended Plans of Reorganization and the formation of the New Corporation to be organized pursuant thereto, was referred to James G. Moore, Esq., as Special Master, to hear and report with his opinion thereon.

13. Upon information and belief, that Special Master James G. Moore, filed herein an Intermediate Report, dated March 11, 1938, wherein he recommended that the Effective Date of the Amended Plans of Reorganization be fixed as March 1, 1938, and reported upon the status of the bonds of each Series, cash on hand in the various Trust Funds, the amount to be set aside for fees and expenses in con-



nection with these proceedings and the amounts to be paid to bondholders as of the Effective Date of the Said Plans. Said Report is hereby made a part hereof. 589

14. Upon information and belief, that by order made and entered herein on April 5, 1938, the said Intermediate Report of the Special Master, dated March 11, 1938, was approved and confirmed and funds reserved to pay reorganization expenses or allowances were directed to be turned over to your petitioner.

15. Upon information and belief, that by order made and entered herein on April 27, 1938, the Debtor and its Reorganization Trustees were authorized and directed to assign, transfer and convey to your petitioner, all of their right, title and interest in and to all the real and personal property, comprising or assigned, deposited or pledged to secure each and all of the eighteen (18) Series of Bonds issued by the Debtor and the Seneca Issue of Mortgage Participation Certificates of the Debtor, and that instruments of conveyance and assignment covering said property, have been executed and acknowledged by the Debtor and its Reorganization Trustees and delivered to your petitioner as of March 1, 1938. 590

16. Upon information and belief, that the collateral underlying the eighteen (18) Series of Bonds issued by the Debtor, is subject to the lien of Supplemental Trust Agreements approved by this Court, and includes among other property, bonds of various Series of said eighteen (18) Series of Bonds, in the original face principal amount of approximately \$1,600,000.00. 591

17. Upon information and belief, that by the above mentioned orders, dated March 11, 1936, May 6, 1936, the eighteen orders dated January 18, 1938, and also by orders made and entered herein on July 21, 1937, June 3, 1938 and June 6, 1938, there was referred to James G. Moore, Esq., as Special Master, the consideration of the persons or

592 corporations to whom allowances for services or expenses should be made under the Plans of Reorganization confirmed herein and the provisions of Section 77B of the Bankruptcy Act, for written report and recommendation with his opinion thereon; that thereafter, approximately sixty-one (61) applications for allowances for services and disbursements in the aggregate total sum of approximately \$2,887,000.00 were filed with, and hearings thereon held before, said Special Master.

593 18. Upon information and belief, that the only objections filed with the Special Master to the said applications for allowances were the objections of your petitioner, Reconstruction Finance Corporation and the Trustees of The Prudence Company, Inc., Debtor. The objections of your petitioner, verified August 22, 1938, which are on file herein, are hereby made a part hereof.

594 19. Upon information and belief, that the Trustees of the Debtor herein, did not oppose or file objections to said applications for allowances, for the reason that, prior to the filing of the applications for allowances they had executed and delivered the instruments of conveyance and assignment referred to above in paragraph "15" hereof and because in the matter of allowances, they took the position they had been superceded by your petitioner which had evidenced its intention of analyzing the applications for allowances and filing objections thereto.

20. Upon information and belief, that said Special Master filed herein an Intermediate Report, dated November 30, 1938, wherein he recommended that allowances, for services and disbursements, be granted, in the aggregate sum of \$462,014.08, to a number of the applicants for allowances, but reserved for future determination the applications for allowances filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and their respective attorneys appearing in these reorganization proceedings. Said Report is hereby made a part hereof.

21. Upon information and belief, that by a notice of motion, dated December 1, 1938, returnable December 9, 1938, Prudence Securities Advisory Group, an intervenor herein, made an application herein, for an order passing upon the said Intermediate Report of the Special Master, taking such action thereon as this Court might deem advisable and granting such other and further relief, as to this Court might seem just and proper. 595

22. Upon information and belief, that the said motion of Prudence Securities Advisory Group was adjourned from December 9, 1938 to December 16, 1938, so as to await the coming in of the Special Master's Report on the remaining applications for allowances then pending before him.

23. Upon information and belief, that thereafter, said Special Master filed herein an Intermediate Report, dated December 12, 1938, wherein he recommended that allowances, for services and disbursements in the aggregate sum of \$626,862.41, be granted to the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and their respective attorneys appearing herein, and gave written notice to the parties in interest, that said Report would be handed up to the District Judge in charge of these proceedings on December 16, 1938, for consideration in conjunction with his Report, dated November 30, 1938, and that a hearing upon said two (2) Reports was held before this Court on December 16, 1938. Said Report is hereby made a part hereof. 596

24. Upon information and belief, that all allowances and expenses of these reorganization proceedings are payable out of cash in the Trust Funds securing the eighteen (18) Series of Bonds issued by the Debtor, except allowances of \$15,000.00 for services and disbursements in connection with the Plan of Reorganization for the Debtor's Seneca Issue of Mortgage Participation Certificates. 597

25. That your petitioner filed objections and exceptions to the confirmation of the said Reports of the Special Mas-

598 ter, dated November 30, 1938 and December 12, 1938, upon the ground, among others, that the total allowances recommended by the Special Master in his said Reports, in the aggregate sum of \$1,088,876.49, plus all prior allowances granted in these reorganization proceedings, was excessive and unreasonable and beyond the ability of the Estate to pay. The said objections and exceptions of your petitioner are hereby made a part hereof.

26. Upon information and belief, that under date of February 1, 1939, Hon. Robert A. Inch, District Judge, handed down an opinion, ruling that the Special Master's Report of November 30, 1938, should be confirmed, granting allowances in the aggregate sum of \$19,500.00, in addition to the allowances recommended by the Special Master, in 599 said Report, totalling the sum of \$462,014.08, and reserving for future determination the application for an allowance of the sum of \$50,954.64, filed by the Trustees of New York Investors, Inc., which the Special Master in his Report, dated November 30, 1938, recommended be denied, and also reserving for future determination, the allowances recommended by the Special Master in his Report dated December 12, 1938, in the aggregate sum of \$626,862.41, for the above named eleven (11) Corporate Trustees and their respective attorneys appearing herein.

27. Upon information and belief, that in said opinion dated February 1, 1939, this Court stated in part as follows: 600

"While this reorganization proceeding was commenced under Section 77B of the Bankruptcy Act (11 U. S. C. A., Section 207), the petition having been filed June 29, 1934, the new provisions of Chap. 10, Article 13, of the Chandler Act (11 U. S. C. A., Section 341 et seq.) can be applied as fairly and conveniently to these applications as they could be, had, the proceeding been started within three months of the effective date of the Act, to wit, June 22, 1938. I consider it practicable therefore to apply them."



28. Upon information and belief, that, thereafter, separate orders on allowances were made and entered herein, in the office of the Clerk of this Court, as follows: 601

(a) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05, were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements.

(b) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07, were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements. 602

(c) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00, were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services.

(d) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96, were granted to Bondholders' Protective Committee, for Prudence-Bonds, Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tamblyn, Esqs., its attorneys herein, for services and disbursements.

(e) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services. 603

(f) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19, was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

(g) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78, were granted to Independent Prudence Bond-

604

holders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

(h) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00, was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services.

(i) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02, was granted to General Committee for Prudence Securities, for services and disbursements.

605

(j) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26, were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

(k) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee for Prudence Securities, for services.

(l) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,500.00, was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services.

606

(m) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67, was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

(n) Order, dated February 21, 1939, whereby, among other things; (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7,500.00, were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys

herein, for services and disbursements; (3) an allowance in the sum of \$540.12 was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys, appearing herein, for allowances for services and disbursements, were held in abeyance for future determination. 607

(o) Order, dated February 21, 1939, which denied the application of your petitioner, Prudence-Bonds Corporation (New Corporation), for a re-argument of the application for the consideration of the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938. 608

29. That, thereafter, your petitioner duly applied to this Court, upon notice to all interested parties, for leave to appeal to the United States Circuit Court of Appeals for the Second Circuit, from the orders described in the preceding paragraph and such application was duly granted by order made and entered herein on March 15, 1939. Said order and the papers upon which it was granted, which are on file herein, are hereby made a part hereof.

30. That, thereafter, your petitioner duly appealed from said orders to the said United States Circuit Court of Appeals, and, upon information and belief, appeals from said orders were also taken by various other parties in interest. 609

31. Upon information and belief, that by its mandate filed herein August 15, 1939, the said United States Circuit Court of Appeals, duly reversed so much of the order of February 21, 1939, described in subdivision "(n)" of paragraph "28" above, as deferred consideration of the applications for allowances filed by the above named eleven (11) Corporate Trustees and their respective attorneys

610 appearing herein and remanded these proceedings to this Court for further proceedings in conformity with the said decision and mandate of the said United States Circuit Court of Appeals and that by order made and entered herein on September 18, 1939, the said mandate of the said United States Circuit Court of Appeals, was made the order of this Court.

611 32. Upon information and belief, that under date of October 26, 1939, Hon. Robert A. Inch, District Judge, handed down an opinion herein, ruling that the application of the Trustees of New York Investors, Inc., for an allowance, should be denied and that the Special Master's Report of December 12, 1938, recommending allowances for the said eleven (11) Corporate Trustees and their respective attorneys appearing herein, should be confirmed.

33. Upon information and belief, that by order made and entered herein on November 6, 1939, it was adjudged and decreed, that the application of the Trustees of New York Investors, Inc., for an allowance be denied and that allowances be fixed for the said eleven (11) Corporate Trustees and their respective attorneys appearing herein, in the aggregate sum of \$626,097.20, as more specifically set forth in said order which is on file herein and hereby made a part hereof.

612 34. That your petitioner intends to appeal from the order described in the preceding paragraph, except such part thereof, as denies the application of the Trustees of New York Investors, Inc., for an allowance, and is advised by counsel, that in view of the provisions of the Chandler Act and the general orders in Bankruptcy, as amended effective February 13, 1939, and under all the facts and circumstances herein, petitioner may appeal from said order as a matter of right without obtaining leave of this Court. Petitioner, however, is further advised by counsel, that some question might be raised that leave of this Court should have been obtained to perfect petitioner's right to



appeal from the said order and your petitioner, therefore, makes this application for leave to take and prosecute such appeal. 613

35. That your petitioner verily believes, that under all the facts and circumstances herein, the granting of this application would be in the best interests of the bondholders and others interested in the Estate of the Debtor affected by said order.

36. That the reason an order to show cause is requested, is that petitioner desires to take and prosecute said appeal as expeditiously as possible.

37. That no previous application has been made for the relief herein requested. 614

WHEREFORE, your petitioner respectfully prays, that an order be made and entered herein, granting leave to your petitioner to appeal from the order described in paragraph "33" above; granting such other and further relief as may be proper in the premises and that an order to show cause in the form hereto annexed be granted.

Dated: New York, N. Y., November 8, 1939.

PRUDENCE-BONDS CORPORATION,

By: THOMAS W. STREETER  
PRESIDENT.

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds  
Corporation (New Corporation)  
Office & P. O. Address,  
100 East 42nd Street,  
Borough of Manhattan,  
New York, N. Y. 615

(Verified November 8, 1939.)

**616 Order granting Prudence-Bonds Corporation leave to appeal  
from order of Nov. 6, 1939.**

**UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.**

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**[CAPTION]**

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**617** A motion by an order to show cause signed by the Hon. Robert A. Inch and dated November 8, 1939, upon the petition of Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the above entitled proceedings, duly verified the 8th day of November, 1939, and upon the papers filed and the proceedings heretofore had herein, having duly come on to be heard before this Court on the 17th day of November, 1939, for an order granting leave to said petitioner to take and prosecute an appeal to the United States Circuit Court of Appeals for the Second Circuit from an order made and entered herein on November 6, 1939, whereby, among other things, the Report of Special Master James G. Moore, on allowances, dated December 12, 1938, was confirmed and allowances in the aggregate sum of \$626,097.20, were fixed for the eleven (11) Corporate Trustees of the eighteen (18) Series of bonds issued by the Debtor and for their respective attorneys appearing herein, and for such other and further relief as may be just and proper in the premises;

**618**

Now, upon reading and filing the said order to show cause, with proof of due service thereof upon the necessary parties to these proceedings as required by said order to show cause, and upon reading and filing the said petition of Prudence-Bonds Corporation, the New Corporation, duly verified the 8th day of November, 1939, in support of said motion, and no papers being filed in opposition thereto, and

after hearing Charles M. McCarty, Esq., attorney for Prudence-Bonds Corporation, the New Corporation, and James F. Dealy, Esq., attorney for Reconstruction Finance Corporation, in support of said motion, and no one appearing in opposition thereto, and upon the papers filed and the proceedings heretofore had herein, and due deliberation having been had thereon, it is 619

ORDERED, that the said motion be and hereby is, in all respects granted and that Prudence-Bonds Corporation, the New Corporation as aforesaid, be and it hereby is granted leave of this Court, to take and prosecute an appeal to the United States Circuit Court of Appeals for the Second Circuit, from all or any part of the said order made and entered herein on November 6, 1939. 620

Dated: Brooklyn, N. Y., November 20, 1939.

ROBERT A. INCH  
U. S. D. J., E. D. N. Y.

Notice of appeal by Prudence-Bonds Corporation from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK. 621

[CAPTION]

SIRS:

PLEASE TAKE NOTICE, that Prudence-Bonds Corporation, the New Corporation formed pursuant to the Amended Plans of Reorganization approved and confirmed in the

622 above entitled proceedings, hereby appeals to the United States Circuit Court of Appeals, for the Second Circuit, from an order of this Court made in said proceedings by the Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of this Court on November 6, 1939, whereby, among other things, the Report of Special Master James G. Moore, on allowances, dated December 12, 1938, was confirmed and allowances in the aggregate sum of \$626,097.20 were fixed for the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and for their respective attorneys appearing herein, and that said Prudence-Bonds Corporation, hereby appeals from each and every part of said order as well as from the whole thereof, both on the law and on the facts, except those portions of said order set forth in the paragraphs thereof, designated "1" and "27" and except those portions of said order which in certain respects defer payment of the allowances fixed for the said Corporate Trustees and their respective attorneys appearing herein.

623

Dated: New York, N. Y., November 28, 1939.

Yours, etc.,

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds  
Corporation (New Corporation)  
Office & P. O. Address,  
No. 100 East 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

624

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 30, 1939."



Notice of appeal by Brooklyn Trust Company, et al., from 625  
order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

PLEASE TAKE NOTICE that Brooklyn Trust Company and 626  
Cullen & Dykman hereby appeal to the United States Cir-  
cuit Court of Appeals for the Second Circuit from an order  
of this court made herein by Honorable Robert A. Inch,  
dated November 6, 1939, and entered in the office of the  
Clerk of this court on the 6th day of November, 1939,  
whereby, among other things, the report of Special Master  
James G. Moore, dated December 12, 1938, and filed herein,  
was in all respects approved and confirmed, and which  
order, among other things, fixes the compensation of cer-  
tain corporate trustees and their counsel and in certain  
respects defers the payment of such compensation; and  
that said Brooklyn Trust Company and said Cullen & Dyk-  
man hereby appeal from each and every part of said order 627  
as well as from the whole thereof, except that portion of  
said order designated "1" thereof, which confirms the re-  
port of said Special Master dated November 30, 1938, in

628 so far as said report relates to the application of the trustees of New York Investors, Inc., for an allowance.

Dated: Brooklyn, N. Y., November 8, 1939.

Yours, &c.,

CULLEN & DYKMAN,  
Pro se and as Attorneys for Brooklyn  
Trust Company

Office & P. O. Address:  
215 Montague Street,  
Borough of Brooklyn,  
City of New York.

629 The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 9, 1930."

Notice of appeal by Charles H. Kelby, as Trustee of New York Investors, Inc. from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

630

SIRS:

PLEASE TAKE NOTICE that Charles H. Kelby, as Trustee of New York Investors, Inc. in liquidation under subdivision (k) of Section 77B of the Bankruptcy Act (successor in interest to Charles H. Kelby and Clifford S. Kelsey, as Trustees of New York Investors, Inc. in proceedings for reorganization under Section 77B of the Bankruptcy Act) hereby appeals to the United States Circuit Court of Appeals for the Second Circuit from that portion of an order

of this Court made by the Honorable Robert A. Inch, District Judge, entered in the office of the Clerk of this Court on the 6th day of November, 1939, which is designated "1" thereof, whereby among other things the report of Special Master James G. Moore dated November 30, 1938 and filed herein was in all respects approved and confirmed in so far as said Report relates to the application of the Trustees of New York Investors, Inc. for an allowance of reimbursement for expenses; and which portion of said order denies said application of the Trustees of New York Investors, Inc.; and that said Charles H. Kelby as Trustee of New York Investors, Inc., hereby appeals, both on the law and on the facts, from each and every part, as well as from the whole, of said portion of said order designated "1" thereof.

Dated: November 14, 1939.

Yours, etc.,

FRUEAUFF, BURNS, O'BRIEN & RUCH,  
Attorneys for Charles H. Kelby as  
Trustee of New York Investors, Inc.

Office and P. O. Address:

No. 60 Wall Street  
Borough of Manhattan,  
City of New York

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 14, 1939."

634 Notice of appeal by City Bank Farmers Trust Company,  
et al., from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

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[CAPTION]

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SIRS:

635

PLEASE TAKE NOTICE that City Bank Farmers Trust Company and Delafield, Marsh, Porter & Hope hereby appeal to the United States Circuit Court of Appeals for the Second Circuit from an order of this court made herein by Honorable Robert A. Inch, dated November 6, 1939, and entered in the office of the Clerk of this Court on the 6th day of November, 1939, whereby, among other things, the report of Special Master James G. Moore, dated December 12, 1938, and filed herein, was approved and confirmed, and which order, among other things, fixes the compensation of certain corporate trustees and their counsel and in certain respects defers the payment of such compensation; and that said

636 City Bank Farmers Trust Company and said Delafield, Marsh, Porter & Hope hereby appeal from each and every part of said order as well as from the whole thereof, except that portion of said order designated "1" thereof, which confirms the report of said Special Master dated November 30, 1938, in so far as said report relates to the application



of the trustees of New York Investors, Inc., for an allowance.

637

Dated: New York, N. Y., November 14, 1939.

Yours, etc.,

DELAFIELD, MARSH, PORTER & HOPE  
Pro se and as Attorneys for City Bank  
Farmers Trust Company  
Office and P. O. Address:  
20 Exchange Place  
Borough of Manhattan  
City of New York

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office, U. S. District Court E. D. N. Y. November 16, 1939."

638

Notice of appeal by The Chase National Bank, et al., from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

639

PLEASE TAKE NOTICE that The Chase National Bank of the City of New York and Milbank, Tweed & Hope hereby appeal to the United States Circuit Court of Appeals for the Second Circuit from an order of this court made herein by Honorable Robert A. Inch, dated November 6, 1939, and entered in the office of the Clerk of this Court on the 6th day of November, 1939, whereby, among other things, the report of Special Master James G. Moore, dated December 12, 1938, and filed herein, was approved and confirmed, and which order, among other things, fixes the compensation of

640 certain corporate trustees and their counsel and in certain respects defers the payment of such compensation; and that said The Chase National Bank of the City of New York and Milbank, Tweed & Hope hereby appeal from each and every part of said order as well as from the whole thereof, except that portion of said order designated "1" thereof, which confirms the report of said Special Master dated November 30, 1938, in so far as said report relates to the application of the trustees of New York Investors, Inc., for an allowance.

Dated: New York, N. Y., November 17, 1939.

Yours, etc.,

MILBANK, TWEED & HOPE,

641 Pro see and as Attorneys for The Chase National Bank of the City of New York,

Office and P. O. Address:  
15 Broad Street,  
Borough of Manhattan,  
City of New York.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 18, 1939."

642 Notice of appeal by Manufacturers Trust Company, et al.,  
from order of Nov. 6, 1939. .

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE that MANUFACTURERS TRUST COMPANY and NEWMAN & BISCO hereby appeal to the United States

Circuit Court of Appeals for the Second Circuit from an order of this Court made herein by Honorable Robert A. Inch, dated November 6, 1939, and entered in the office of the Clerk of this Court on the 6th day of November, 1939, whereby, among other things, the report of Special Master James G. Moore, dated December 12, 1938, and filed herein, was in all respects approved and confirmed, and which order, among other things, fixes the compensation of certain corporate trustees and their counsel and in certain respects defers the payment of such compensation; and that said Manufacturers Trust Company and said Newman & Bisco hereby appeal from each and every part of said order as well as from the whole thereof, except paragraph "1" of said order, which confirms the report of said Special Master dated November 30, 1938, insofar as said report relates to the application of the Trustees of New York Investors, Inc., for an allowance.

643

644

Dated: New York, November 15, 1939.

Yours, etc.,

NEWMAN & BISCO,

Pro se and as attorneys for Manufacturers  
Trust Company,

29 Broadway

Borough of Manhattan

City of New York

645

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 21, 1939."

646 Notice of appeal by President and Directors of the Manhattan Company from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

647 PLEASE TAKE NOTICE that President and Directors of the Manhattan Company as Trustee of Prudence-Bonds FIFTH and NINTH Series hereby appeals to the United States Circuit Court of Appeals for the Second Circuit from the following portions of an order entered in the office of the Clerk of this Court on November 6, 1939; each and every part of paragraph 8, and so much of paragraphs 2 and 26 as confirmed the report of Special Master James G. Moore dated December 12, 1939, fixing the allowance of President and Directors of the Manhattan Company as Trustee of Prudence-Bonds FIFTH and NINTH series and deferring payment thereof, and from each and every part of said order in so far as it affects the allowance of President and Directors of the Manhattan Company as Trustee of Prudence-Bonds FIFTH and NINTH series, and the time of payment thereof, and only from those parts of said order.  
New York, N. Y., November 20, 1939.

Yours, etc.,

648

MACLAY, LYETH & WILLIAMS

Attorneys for President and Directors of  
the Manhattan Company as Trustee of  
Prudence-Bonds FIFTH and NINTH  
series

Office & P. O. Address

55 Liberty Street,  
New York, N. Y.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 24, 1939."



Notice of appeal by Simpson, Thacher & Bartlett, et al., 649  
from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

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[ CAPTION ]

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SIRS:

PLEASE TAKE NOTICE that Simpson Thacher & Bartlett 650  
and Sonnenschein, Berkson, Lautmann, Levinson & Morse  
hereby appeal to the United States Circuit Court of Appeals  
for the Second Circuit from an order of this Court made  
herein by Honorable Robert A. Inch, dated November 6,  
1939, and entered in the office of the Clerk of this Court on  
the 6th day of November, 1939, whereby, among other  
things, the report of Special Master James G. Moore, dated  
December 12, 1938, and filed herein, was approved and con-  
firmed, and which order, among other things, fixes the com-  
pensation of certain corporate trustees and their counsel,  
and in certain respects defers the payment of such com-  
pensation; and that said Simpson Thacher & Bartlett and 651  
Sonnenschein, Berkson, Lautmann, Levinson & Morse here-  
by appeal from each and every part of said order as well  
as from the whole thereof, except that portion of said order  
designated "1" thereof, which confirms the report of said  
Special Master dated November 30, 1938, in so far as said

652 report relates to the application of the trustees of New York Investors, Inc. for an allowance.

Dated: New York, N. Y., November 22, 1939.

Yours, etc.,

SIMPSON THACHER & BARTLETT,

Pro se,

Office and Post Office Address,

120 Broadway,

New York, N. Y.

SONNENSCHN, BERESON, LAUTMANN,

LEVINSON & MORSE,

Pro se,

Office and Post Office Address,

77 West Washington Street,

Chicago, Illinois.

653

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. December 6, 1939."

Notice of appeal by Carter, Ledyard & Milburn from order of Nov. 6, 1939.

654

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[ CAPTION ]

SIRS:

PLEASE TAKE NOTICE that Carter, Ledyard & Milburn, pro se, hereby appeal to the United States Circuit Court of

Appeals for the Second Circuit from the following portions  
of an order of this Court dated November 6, 1939, and  
entered in the office of the Clerk of this Court on November  
6, 1939, which, among other things, confirmed the report  
of Special Master James G. Moore, dated December 12,  
1938, and fixed allowances of certain corporate trustees and  
their attorneys herein and deferred in certain respects the  
payment of such allowances or parts thereof: 655

That portion of said order designated "2" insofar as it  
relates to an allowance to Carter, Ledyard & Milburn; that  
portion of said order designated "9" and that portion of  
said order designated "26"; and that Carter, Ledyard &  
Milburn, hereby appeal from each and every part of said  
order relating to an allowance to Carter, Ledyard & Mil- 656  
burn and the time of payment thereof.

Dated: New York, N. Y., November 16, 1939.

CARTER, LEDYARD & MILBURN,  
Pro se,

Office & P. O. Address:  
No. 2 Wall Street,  
Borough of Manhattan,  
City of New York.

The foregoing Notice of Appeal is addressed to all parties  
in interest and stamped "Filed in Clerk's Office U. S.  
District Court E. D. N. Y. November 22, 1939." 657

658 Notice of appeal by Larkin, Rathbone & Perry from order  
of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

SIRS:

659

PLEASE TAKE NOTICE that Larkin, Rathbone & Perry hereby appeals to the United States Circuit Court of Appeals for the Second Circuit from that portion of an order of this Court made by the Honorable Robert A. Inch, District Judge, entered in the office of the Clerk of this Court on the 6th day of November, 1939, designated as paragraph "2" thereof in so far as it approves and confirms that portion of the report of Special Master James G. Moore, dated December 12, 1938, and filed herein, which allocates and segregates as "LIENS UNDER TRUST AGREEMENTS" a certain portion of the sum recommended as compensation for certain services rendered by Larkin, Rathbone & Perry, from that part of the paragraph of said order designated "11" which withholds payment of a certain portion of the sum

660

allowed to Larkin, Rathbone & Perry as compensation for their services, to-wit, the sum of \$40,000, pending disposition of the proceedings herein for the judicial settlement and approval of the accounts filed herein by Central Hanover Bank and Trust Company, as Trustee of Prudence Bonds, Sixth and Eighteenth Series, or until further order of this Court, and from that portion of said order designated as paragraph "26" thereof; and that said Larkin, Rathbone & Perry hereby appeals, both on the law and on



the facts, from each and every part, as well as from the whole, of the aforesaid portions of said order.

661

Dated: New York, N. Y., November 20, 1939.

Yours, etc.,

LARKIN, RATHBONE & PERRY,

Pro se,

Office and Post Office Address:

70 Broadway,

City of Manhattan,

City of New York.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 21, 1939."

662

Notice of appeal by Marine Midland Trust Co., et al., from order of Nov. 6, 1939.

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

[CAPTION]

663

SIRS:

PLEASE TAKE NOTICE that The Marine Midland Trust Company of New York, as Trustee of Prudence-Bonds, Sixteenth Series, intervenor, and Sullivan & Cromwell hereby appeal to the United States Circuit Court of Appeals for

664, the Second Circuit from an order of this Court made herein by Honorable Robert A. Inch, dated November 6, 1939, and entered in the office of the Clerk of this Court on the 6th day of November, 1939, whereby, among other things, the report of Special Master James G. Moore, dated December 12, 1938, and filed herein, was approved and confirmed, and which order, among other things, fixes the compensation of certain corporate trustees and their counsel and in certain respects defers the payment of such compensation; and that said The Marine Midland Trust Company of New York and said Sullivan & Cromwell hereby appeal from each and every part of said order as well as from the whole thereof, except that portion of said order designated "1" thereof, which confirms the report of said Special Master dated November 30, 1938, in so far as said report relates to the application of the trustees of New York Investors, Inc., for an allowance.

665

Dated New York, November 28, 1939.

Yours, etc.,

SULLIVAN & CROMWELL,

Pro se and as attorneys for The Marine  
Midland Trust Company of New  
York, as Trustee of Prudence-Bonds,  
Sixteenth Series, intervenor,

666

48 Wall Street,  
New York, N. Y.

The foregoing Notice of Appeal is addressed to all parties in interest and stamped "Filed in Clerk's Office U. S. District Court E. D. N. Y. November 30, 1939."

**PROCEEDINGS IN THE CIRCUIT COURT  
OF APPEALS**

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Order to show cause in the C. C. A. 2d on motion by Prudence-Bonds Corporation for consolidation of appeals, etc.

667

# UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SECOND CIRCUIT.

## [CAPTION]

Upon the annexed petition of PRUDENCE-BONDS CORPORATION (New Corporation), duly verified the 16th day of March, 1939, and this Court being fully advised, it is

ORDERED, that the Debtor, the Trustees of the Debtor, and all intervenors and applicants for allowances in the above entitled proceedings, or their respective attorneys appearing herein, show cause, if any there be, before this Court, at the United States Courthouse, Foley Square, in the Borough of Manhattan, City and State of New York, in Room 1705 thereof, on the 20th day of March, 1939, at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, why an order should not be made herein consolidating, for all purposes, the appeals of petitioner, Prudence-Bonds Corporation (New Corporation) from the orders described in paragraph "25" of said petition, as well as the appeals described in said petition, taken by Reconstruction Finance Corporation, directing that one transcript of record covering all of said appeals be filed, and directing the Clerk of this Court to accept such transcript of record, consisting of the original papers upon which said appeals are to be heard, when duly certified by the Clerk of the United States District Court for the Eastern District of New York, and granting such other and further relief as may be just and proper in the premises; and it is further

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ORDERED, that service of this order and the petition upon which it is granted, by service of copies thereof, by mail,

670 upon the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in these proceedings, or upon their respective attorneys or solicitors appearing herein, on or before the 16th day of March, 1939, shall be deemed sufficient.

Dated: New York, N. Y., March 16, 1939.

HARRIE B. CHASE  
United States Circuit Judge for  
the Second Circuit.

671

**Petition of Prudence-Bonds Corporation on motion to  
consolidate appeals, etc.**

**UNITED STATES CIRCUIT COURT OF APPEALS,**

**FOR THE SECOND CIRCUIT.**

[CAPTION]

672 *To the Honorable the Judges of the United States Circuit  
Court of Appeals for the Second Circuit:*

The petition of PRUDENCE-BONDS CORPORATION, respectfully shows:

1. That your petitioner is a domestic corporation duly organized under the Stock Corporation Law and Section 9(b) of the General Corporation Law of the State of New York, and is the New Corporation formed pursuant to the Amended Plans of Reorganization, approved and con-

filed in the above entitled proceedings, pending in the United States District Court, for the Eastern District of New York. 673

2. Upon information and belief, that on June 29, 1934, the Debtor filed its petition in said District Court for reorganization under Section 77B of the Bankruptcy Act; that by order made and entered on the same day said petition was approved as properly filed and Charles H. Kelby and Clifford S. Kelsey were appointed Temporary Trustees of the Debtor; that by order made and entered on July 31, 1934, the appointment of said Trustees was made Permanent and that said Trustees duly qualified and are still acting in that capacity. 674

3. Upon information and belief, that at the time of filing its petition for reorganization, the Debtor had outstanding eighteen (18) separate Series of First Mortgage-Collateral Bonds, payable to the bearer or registered holder thereof, aggregating in principal amount the sum of approximately \$56,000,000.00; that each of said Series of Bonds was secured by a Trust Agreement made between the Debtor and a Bank or Trust Company, under which mortgages and mortgage bonds and other securities were pledged by the Debtor for the equal and pro rata benefit and security of the holders of said bonds, which securities constitute the collateral underlying said Series of Bonds, and that the names of the Corporate Trustees or Successor Corporate Trustees at the time said proceedings were instituted and the respective dates of said Trust Agreements are as follows: 675

	<i>Series</i>	<i>Trust Agreement dated</i>		<i>Corporate Trustee</i>
676	A	January	15, 1920	Guaranty Trust Company of New York
	AA	August	1, 1922	City Bank Farmers Trust Company
	Third	October	1, 1924	City Bank Farmers Trust Company
	Fourth	October	15, 1924	City Bank Farmers Trust Company
	Fifth	April	1, 1925	President & Directors of The Manhattan Company
	Sixth	July	1, 1925	Central Hanover Bank and Trust Company
677	Seventh	October	1, 1925	City Bank Farmers Trust Company
	Eighth	March	1, 1927	Brooklyn Trust Company
	Ninth	March	1, 1927	President & Directors of The Manhattan Company
	Tenth	May	1, 1927	State Street Trust Company
	Eleventh	December	1, 1927	Chicago Title & Trust Company
	Twelfth	February	1, 1928	Manufacturers Trust Company
	Thirteenth	June	1, 1928	Manufacturers Trust Company
678	Fourteenth	September	15, 1928	The Chase National Bank of the City of New York
	Fifteenth	October	1, 1928	Chemical Bank & Trust Company
	Sixteenth	February	1, 1929	The Marine Midland Trust Company of New York
	Seventeenth	August	1, 1929	City Bank Farmers Trust Company
	Eighteenth	February	2, 1931	Central Hanover Bank and Trust Company



4. Upon information and belief, that at the time of filing its petition for reorganization, the Debtor also had outstanding an issue of Mortgage Participation Certificates known as the Seneca Issue. 679

5. Upon information and belief, that the outstanding bonds of said eighteen (18) Series of Bonds, are held by approximately 35,000 bondholders residing in the State of New York, and elsewhere in many parts of the United States and in foreign countries.

6. Upon information and belief, that by order made and entered in said reorganization proceedings on March 11, 1936, an Amended Plan of Reorganization for the Debtor's Seneca Issue of Mortgage Participation Certificates was approved and confirmed. 680

7. Upon information and belief, that by order made and entered in said reorganization proceedings on May 6, 1936, an Amended Plan of Reorganization for Prudence-Bonds, Fifteenth Series was approved and confirmed.

8. Upon information and belief, that by order made and entered in said reorganization proceedings on April 27, 1937, the said District Court found, that the Debtor was insolvent and that in respect of each of the eighteen (18) Series of Bonds, the fair value of the collateral pledged to secure each Series is less than the principal amount of the outstanding bonds and accrued unpaid interest thereon and that the Debtor, its stockholders and general creditors have no equity in the pledged collateral in any Series of Bonds. 681

9. Upon information and belief, that by eighteen (18) orders made and entered in said reorganization proceedings, on January 18, 1938, Amended Plans of Reorganization for Prudence-Bonds, Series A, Series AA, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Sixteenth, Seventeenth and Eighteenth Series and a so-called Amended

682 General Plan of Reorganization, were each approved and confirmed.

10. Upon information and belief, that the so-called Amended General Plan of Reorganization, provides for the formation of a New Corporation in accordance with Section 9(b) of the General Corporation Law of the State of New York; that all of the capital stock of such New Corporation shall be deposited under and subject to a Voting Trust Agreement; that the Voting Trustees shall be appointed by the District Court and for the distribution of all Voting Trust Certificates or Voting Trust Scrip, pro rata, to the holders of bonds of the eighteen (18) Series of Bonds issued by the Debtor.

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11. Upon information and belief, that in accordance with the Amended Plans of Reorganization approved and confirmed as aforesaid, your petitioner, the New Corporation provided for by the so-called Amended General Plan of Reorganization was organized under the Stock Corporation Law and Section 9(b) of the General Corporation Law of the State of New York and that its certificate of incorporation approved by the District Court, was filed in the office of the Secretary of State, Albany, N. Y., on February 4, 1938.

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12. Upon information and belief, that pursuant to the above mentioned orders, dated March 11, 1936, May 6, 1936 and January 18, 1938, the supervision of the consummation of said Amended Plans of Reorganization and the formation of the New Corporation to be organized pursuant thereto, was referred to James G. Moore, Esq., as Special Master, to hear and report with his opinion thereon.

13. Upon information and belief, that Special Master James G. Moore, filed an Intermediate Report in said reorganization proceedings, dated March 11, 1938, wherein he recommended that the Effective Date of the Amended Plans of Reorganization be fixed as March 1, 1938, and also

reported upon the status of the bonds of each Series, cash on hand in the various Trust Funds, the amount to be set aside for fees and expenses in connection with the reorganization proceedings and the amounts to be paid to bondholders as of the Effective Date of the said Plans. 685

14. Upon information and belief, that by order made and entered in said reorganization proceedings on April 5, 1938, the said Intermediate Report of the Special Master, dated March 11, 1938, was approved and confirmed and funds reserved to pay reorganization expenses or allowances were directed to be turned over to your petitioner.

15. Upon information and belief, that by order made and entered in said reorganization proceedings on April 27, 1938, the Debtor and its Reorganization Trustees were authorized and directed to assign, transfer and convey to your petitioner, all of their right, title and interest in and to all the real and personal property, comprising or assigned, deposited or pledged to secure each and all of the eighteen (18) Series of Bonds issued by the Debtor and the Seneca Issue of Mortgage Participation Certificates of the Debtor, and that instruments of conveyance and assignment covering said property, have been executed and acknowledged by the Debtor and its Reorganization Trustees and delivered to your petitioner as of March 1, 1938. 686

16. Upon information and belief, that the collateral underlying the eighteen (18) Series of Bonds issued by the Debtor, which collateral is now owned by your petitioner subject to the lien of Supplemental Trust Agreements approved by the District Court, includes among other property, bonds of various Series of said eighteen (18) Series of Bonds, in the original face principal amount of approximately \$1,600,000.00. 687

17. Upon information and belief, that by the above mentioned orders, dated March 11, 1936, May 6, 1936, the eighteen orders dated January 18, 1938, and also by orders



688 made and entered in said reorganization proceedings on July 21, 1937, June 3, 1938 and June 6, 1938, there was referred to James G. Moore, Esq., as Special Master, the consideration of the persons or corporations to whom allowances for services or expenses should be made under the Plans of Reorganization confirmed in said reorganization proceedings, and the provisions of Section 77B of the Bankruptcy Act, for written report and recommendation with his opinion thereon; that thereafter, approximately sixty-one (61) applications for allowances for services and disbursements were filed with, and hearings thereon held before, said Special Master and that your petitioner filed with said Special Master an answer and objections to the various applications for allowances.

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18. Upon information and belief, that said Special Master filed in said reorganization proceedings an Intermediate Report, dated November 30, 1938, wherein he recommended that allowances, for services and disbursements, be granted, in the aggregate sum of \$462,014.08, to a number of the applicants for allowances, but reserved for future determination the applications for allowances filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and their respective attorneys appearing in these reorganization proceedings.

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19. Upon information and belief, that by a notice of motion, dated December 1, 1938, returnable December 9, 1938, Prudence Securities Advisory Group, an intervenor herein, made an application for an order passing upon the said Intermediate Report of the Special Master, taking such action thereon as the Court may deem advisable and granting such other and further relief, as to the Court might seem just and proper.

20. Upon information and belief, that the said motion of Prudence Securities Advisory Group was adjourned from December 9, 1938 to December 16, 1938, so as to await the coming in of the Special Master's Report on the re-



maining applications for allowances then pending before him.

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21. Upon information and belief, that thereafter, said Special Master filed in said reorganization proceedings an Intermediate Report, dated December 12, 1938, wherein he recommended that allowances, for services and disbursements in the aggregate sum of \$626,862.41, be granted to the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor, and their respective attorneys appearing in these reorganization proceedings, and gave written notice to the parties in interest, that said Report would be handed up to the District Judge in charge of these proceedings on December 16, 1938, for consideration in conjunction with his Report, dated November 30, 1938 and that a hearing upon said two (2) Reports was held before the District Judge on December 16, 1938.

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22: Upon information and belief, that all allowances and expenses of these reorganization proceedings are payable out of cash in the Trust Funds securing the eighteen (18) Series of Bonds issued by the Debtor, except allowances granted in the total sum of \$15,000.00 for services and disbursements in connection with the Plan of Reorganization for the Debtor's Seneca Issue of Mortgage Participation Certificates.

23. That your petitioner filed objections and exceptions to the confirmation of the said Reports of the Special Master, dated November 30, 1938 and December 12, 1938, upon the ground, among others, that the total allowances recommended by the Special Master in his said Reports, in the aggregate sum of \$1,088,876.49, plus all prior allowances granted in these reorganization proceedings, was excessive and unreasonable and beyond the ability of the Estate to pay.

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24. Upon information and belief, that under date of February 1, 1939, Hon. Robert A. Inch, District Judge,

694 handed down an opinion, confirming the Special Master's Report of November 30, 1938, granting allowances in the aggregate sum of \$19,500.00, in addition to the allowances recommended by the Special Master, in said Report, totalling the sum of \$411,059.44, and reserving for future determination the application for an allowance for disbursements of the sum of \$50,954.64, filed by the Trustees of New York Investors, Inc., which the Special Master in his Report, dated November 30, 1938, recommended be denied, and also reserving for future determination, the allowances recommended by the Special Master in his Report dated December 12, 1938, in the aggregate sum of \$626,862.41 for the above named eleven (11) Corporate Trustees and their respective attorneys appearing herein.

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25. Upon information and belief, that the District Judge ruled, that each party to whom an allowance had been awarded or denied might submit a separate order covering the particular application, involved but that there might be included in a single order the matters not covered by separate orders submitted by February 17, 1939, and that thereafter, separate orders on allowances were made in said reorganization proceedings by Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of the Eastern District Court, as follows:

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(a) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05, were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements.

(b) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07, were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

(c) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum

of \$162,500.00, were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services. 697

(d) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96, were granted to Bondholders' Protective Committee, for Prudence-Bonds, Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tamblin, Esqs., its attorneys herein, for services and disbursements.

(e) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

(f) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19, was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements. 698

(g) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78, were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

(h) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00, was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services. 699

(i) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02, was granted to General Committee for Prudence Securities, for services and disbursements.

(j) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26, were granted to Tenth Series Committee and



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Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

(k) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee for Prudence Securities, for services.

(l) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,500.00, was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services.

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(m) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67, was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

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(n) Order, dated February 21, 1939, whereby, among other things; (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7,500.00, were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12, was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination.

(o) Order, dated February 21, 1939, which denied the application of your petitioner, Prudence-Bonds Corporation (New Corporation), for a re-argument of the application for the consideration of the Reports of Spe-



cial Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938.

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26. That after application made by your petitioner, upon notice to all the interested parties, an order was made and entered in said reorganization proceedings on March 15, 1939, granting leave to your petitioner, to take and prosecute appeals to this Court, from any and all of the foregoing orders.

27. That your petitioner feeling aggrieved, has duly appealed both on the law and on the facts, from each and every order described in paragraph "25" above, by filing on March 15, 1939, in the office of the Clerk of the United States District Court, Eastern District of New York, a separate notice of appeal, with proof of service thereof by mail and a bond for costs, with respect to each of said orders and your petitioner verily believes, in view of all the facts and circumstances herein, that these appeals should be consolidated for all purposes, since the applications for allowances were considered jointly as well as separately by the Special Master and the District Court and the objections filed by your petitioner related to all as well as the separate applications. The orders appealed from and the papers upon which they were granted, are therefore interrelated, affect the same subject matter and constitute the record of the proceedings had before the District Court in respect of the applications for allowances herein.

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28. Upon information and belief, that Reconstruction Finance Corporation, an intervenor herein, and an objector to the applications for allowances, has also duly appealed from the orders described in paragraph "25" above, except the order described in subdivision "(o)" of said paragraph "25".

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29. Upon information and belief, that the relevant papers relating to said appeals, including the papers in support of the applications for allowances and the objections

706 and exceptions thereto, are very voluminous and comprise upwards of 500 separate filed papers, substantially all of which are a necessary part of the transcript of record on appeal from each of said fifteen (15) orders.

30. Upon information and belief, that Hon. Robert A. Inch, District Judge, in his above mentioned opinion, dated February 1, 1939, stated in part as follows:

707 "While this reorganization proceeding was commenced under Section 77B of the Bankruptcy Act (11 U. S. C. A., Section 207), the petition having been filed June 29, 1934, the new provisions of Chap. 10, Article 13, of the Chandler Act (11 U. S. C. A., Section et seq.) can be applied as fairly and conveniently to these applications as they could be, had the proceeding been started within three months of the effective date of the Act, to wit, June 22, 1938. I consider it practicable therefore to apply them."

31. That your petitioner is advised by counsel, that Section 250 of Chapter X of the Bankruptcy Act, as amended by the Chandler Act, provides, that appeals from orders granting allowances of compensation or reimbursement, "shall be summarily heard upon the original papers," and that it would be wholly impossible to have a separate and independent transcript of record on appeal of the original papers, in respect of the appeals from each of the orders described in paragraph "25" above.

708 32. That, in view of the number of orders appealed from and of the fact that it will be necessary to serve the papers upon this motion upon forty-two (42) separate attorneys or law firms affected thereby, some of whom have their offices outside the State of New York, and in view of the fact, that your petitioner desires to proceed with the prosecution of these appeals as expeditiously as possible, your petitioner respectfully prays, that an order to show cause be granted, bringing on this motion for a hearing on March 20, 1939 and providing, that service by mail, of a copy of said order and this petition, upon the Debtor, the Trustees

of the Debtor and all intervenors and applicants for allowances in the above entitled proceedings, or their respective attorneys appearing herein, shall be deemed sufficient.

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33. That no previous application has been made for the relief herein requested.

WHEREFORE, your petitioner respectfully prays, that an order be made herein consolidating, for all purposes, the appeals of your petitioner from the orders described in paragraph "25" above as well as the appeals hereinabove referred to taken by Reconstruction Finance Corporation, directing that one transcript of record covering all of said appeals be filed and directing the Clerk of this Court to accept such transcript of record, consisting of the original papers upon which said appeals are to be heard, when duly certified by the Clerk of the United States District Court for the Eastern District of New York, and granting such other and further relief as may be just and proper in the premises, and that an order to show cause in the form hereto annexed be granted.

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Dated: New York, N. Y., March 16, 1939.

PRUDENCE BONDS CORPORATION,

By: THOMAS W. STREETER.

President.

(Verified March 16, 1939.)

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**712**      **Note of Issue of Prudence-Bonds Corporation on motion to consolidate appeals, etc.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

**[CAPTION]**

**713**      Motion by Prudence-Bonds Corporation (New Corporation) for an order consolidating for all purposes, appeals from fifteen (15) orders granting allowances, and made and entered in the above entitled proceedings, pending in the United States District Court, Eastern District of New York; directing that one transcript of record covering all of said appeals be filed, and directing the Clerk of this Court to accept such transcript of record, consisting of the original papers upon which said appeals are to be heard when duly certified by the Clerk of the Eastern District Court.

Motion returnable March 20, 1939, at 10:30 A. M.

Charles M. McCarty, 100 East 42nd Street, New York, N. Y. and E. Stanley Marks, 111 Duane Street, New York, N. Y., attorneys for Appellant, Prudence-Bonds Corporation (New Corporation) and for the motion.

**714**      The attorneys for the Appellees or other parties in interest and their respective attorneys, upon whom the motion papers were served are as follows:

The foregoing Note of Issue lists the names and addresses of attorneys for all parties in interest and is stamped "Filed March 17, 1939, United States Circuit Court of Appeals, Second Circuit, William Parker, Clerk."



**Order to show cause in the C. C. A. 2d on motion by R. F. C. 715**  
**for consolidation of appeals, etc.**

**UNITED STATES CIRCUIT COURT OF APPEALS,**  
**FOR THE SECOND CIRCUIT.**

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**[ CAPTION ]**

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Upon the annexed affidavit of Jerome Thralls, duly sworn to the 16th day of March, 1939, and this Court being fully advised, it is

**ORDERED**, that the Debtor, the Trustees of the Debtor, and all intervenors and applicants for allowances in the above-entitled proceedings, or their respective attorneys appearing herein, show cause before this Court, at the United States Court House, Foley Square, in the Borough of Manhattan, City and State of New York, Room 1705 thereof, on the 20th day of March, 1939 at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, why an order should not be made herein consolidating for all purposes the appeals of Reconstruction Finance Corporation from the orders mentioned in paragraph "(9)" of said affidavit of Jerome Thralls duly sworn to the 16th day of March, 1939 upon which this order is based, as well as the appeals from all of said orders taken to this Court by the new Prudence-Bonds Corporation, together with the appeal taken by said Prudence-Bonds Corporation from the order entered in the above proceedings in the United States District Court, for the Eastern District of New York, dated February 21, 1939, which denied the motion of said Corporation for reargument of the application for consideration of the reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938; directing that one transcript of record covering all of said appeals be filed and directing the Clerk of this Court to

718 accept such transcript of record consisting of the original papers upon which the orders appealed from were based, when duly certified by the Clerk of the United States District Court for the Eastern District of New York, and why such other and further relief as may be just and proper in the premises should not be granted to said Reconstruction Finance Corporation; And sufficient cause appearing therefor, it is further

719 ORDERED, that service of this order and the affidavit upon which the same is based, by service of copies thereof, either personally or by mail, upon the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in the above-entitled proceeding, or upon their respective attorneys or solicitors appearing in said proceedings, on this 16th day of March, 1939 at or before 11:50 P. M., shall be deemed good and sufficient service.

Dated, New York, N. Y., March 16, 1939.

HARRIE B. CHASE

U. S. Circuit Judge for the Second Circuit.

**Affidavit of Jerome Thralls in support of motion to  
• consolidate appeals, etc.**

UNITED STATES CIRCUIT COURT OF APPEALS.

720

FOR THE SECOND CIRCUIT.

[CAPTION]

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

JEROME THRALLS, being duly sworn, deposes and says:

(1) I am the authorized Special Representative of Reconstruction Finance Corporation, duly charged by the

Board of Directors thereof with the protection of its interests in the above-entitled proceeding. Said Corporation is duly organized and existing under and pursuant to an Act of Congress approved January 22, 1932 and all of its stock is beneficially owned by the United States. It owns the entire outstanding stock of the Debtor herein, and was duly authorized to intervene generally in the proceedings in the District Court.

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(2) I am familiar with the proceedings had in the District Court in the above-entitled matter and make this affidavit in support of an application for an order consolidating for all purposes fourteen (14) appeals taken by Reconstruction Finance Corporation to this court from fourteen separate orders of the District Court granting allowances in said proceedings, as well as the appeals also taken from each of said orders by the Prudence-Bonds Corporation (New Corporation), and an additional appeal taken by said Prudence-Bonds Corporation from an order of the District Court denying its motion for reargument of the application for the consideration of the two reports of the Special Master in said proceedings, hereinafter referred to.

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(3) The fourteen separate orders appealed from were made and entered in accordance with an opinion, hereinafter referred to, filed by the District Judge in charge of the proceedings, after a hearing upon two reports of James G. Moore, Esq., Special Master, to whom there had been duly referred for written report and recommendation the matter of the persons and corporations to whom allowances for services or expenses should be made under the plans of reorganization confirmed in the proceeding and the provisions of Section 77B of the Bankruptcy Act.

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(4) Pursuant to the orders of reference numerous applications for allowances for services and disbursements were filed with said Special Master. The applications duly came on for hearing before him and in accordance with the pro-

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cedure adopted as authorized by the orders of reference, objections and proof in opposition to said applications, were filed in writing with the Special Master in the form of affidavits and verified answers. Reconstruction Finance Corporation, as an objector to substantially all of said applications for allowances, including those of applicants to whom allowances have been awarded by the orders appealed from, filed its objections and proof in support thereof by affidavits of this deponent duly sworn to August 20, 1938 and January 26, 1938. The only other objectors to the applications for general allowances herein were the Prudence-Bonds Corporation (the New Corporation organized pursuant to the plans of reorganization confirmed in the proceeding), and the 77B Trustees of The Prudence Company, Inc., a creditor in substantial amount.

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(5) It was the position of Reconstruction Finance Corporation as well as said Prudence-Bonds Corporation (New Corporation) that each of said applications for allowances must of necessity be considered in the light of the facts and allegations contained in the other applications and in the light of proof submitted by the objectors with respect to the conflicting claims of all applicants and the tremendous amount of inexcusable overlapping and duplication of services for which most of the applicants separately requested compensation in grossly excessive amounts.

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(6) The Special Master considered these applications and the proofs in opposition thereto and filed two intermediate reports thereon dated November 30, 1938 and December 12, 1938. By the first report he recommended allowances for services and disbursements in the sum of \$462,014.08 to applicants other than corporate trustees and their counsel and recommended that certain other applications be denied and reserved for future determination applications filed by all the corporate trustees of the Debtor's bond issues and their counsel. By his second report, the Special Master recommended that allowances, for services and dis-



bursements in the sum of \$626,862.41 be granted to the corporate trustees and their counsel.

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(7) These reports of the Special Master came on for consideration before Judge Inch on December 16, 1938, and the Reconstruction Finance Corporation and the New Prudence-Bonds Corporation appeared in opposition to the confirmation thereof.

(8) On February 1, 1939, Judge Inch filed an opinion applying the provisions of Chapter X, Article XIII, of the Chandler Act (11 U. S. C. A., Sec. 241 et seq) to these applications and approved with modifications the Special Master's Report of November 30, 1938. Judge Inch, when approving the Special Master's recommendations, increased the allowance to Samuel Silbiger, from \$1,000 to \$5,000 and awarded allowances to other applicants to whom the Special Master had recommended nothing should be paid. At the same time, Judge Inch reserved for future consideration the application of the 77B Trustees of New York Investors for reimbursement of \$50,954.64 expended by them under his own order for reorganization expenses in this matter. He further reserved consideration of the \$626,862.41 of allowances recommended by the Special Master's report of December 12, 1938, for the corporate trustees and their counsel. Notwithstanding the fact that all of these applications had been passed upon by the Special Master Judge Inch ruled that every applicant could submit an individual order with respect to his application.

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(9) Separate orders were thereafter made as follows:

(1) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05 were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements.

(2) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,-

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786.07 were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

(3) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00 were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services.

731

(4) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,201.96 were granted to Bondholders' Protective Committee, for Prudence-Bonds Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tamblyn, Esqs., its attorneys herein, for services and disbursements.

(5) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

(6) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19 was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

732

(7) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78 were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

(8) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00 was granted to Delafield, Marsh, Porter & Hope, Esqs., at-

torneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services.

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(9) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02 was granted to General Committee for Prudence Securities, for services and disbursements.

(10) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26 were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

(11) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00 was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee of Prudence Securities, for services.

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(12) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,500.00 was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services.

(13) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67 was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

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(14) Order, dated February 21, 1939, whereby, among other things, (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7,500.00 were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12 was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust

736 Company, as Trustee of Prudence-Bonds Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination.

737 (10) Reconstruction Finance Corporation appealed to this Court from all of said orders. Separate notices of appeal with respect to each of these orders were duly filed in the office of the Clerk of the United States District Court for the Eastern District of New York on March 15, 1939, in accordance with the provisions of the Bankruptcy Act as amended, the Rules of Civil Procedure for the District Courts of the United States and the General Orders in Bankruptcy of the United States Supreme Court. In addition, Reconstruction Finance Corporation applied on notice to all interested parties for leave of the District Court to take and prosecute such appeals. This application was heard on the 14th day of March, 1939 and after argument it was in all respects granted and an order was duly made and entered in the office of the Clerk of the United States District Court for the Eastern District of New York on the 15th day of March, 1939.

738 (11) Upon information and belief, the New Prudence-Bonds Corporation also obtained leave from the District Court and has appealed to this Court from the aforesaid fourteen orders, as well as from an additional order dated February 21, 1939 made and entered in the proceedings in the District Court, which denied the application of said Prudence-Bonds Corporation for a reargument of its application for the consideration of the aforesaid two reports of the Special Master on allowances, dated November 30, 1938 and December 12, 1938.



(12) Deponent respectfully prays that all of said appeals be consolidated for all purposes and be heard and considered by this court as one appeal on one record and that appropriate directions be given to the Clerk of this Court with respect thereto. 739

(13) Among the reasons in deponent's opinion why these appeals should be consolidated and treated as one, are:

(a) These applications were considered jointly as well as separately by the Special Master and the proof submitted by objectors applied to all of them. In numerous instances, applicants claimed sole credit for provisions in and amendments to the plans as well as for many other accomplishments helpful to the reorganization. At the same time, other applicants have claimed credit for and have requested compensation for these accomplishments. It is impossible to evaluate the services of individual applicants without considering the claims of other applicants, and the overlapping and duplication of services conclusively shown by the proofs submitted by the objectors. 740

(b) Furthermore, as provided in Section 250 of Chapter X of the Bankruptcy Act as amended, these appeals must be heard summarily on the original papers. Upon information and belief, it would be impossible as a practical matter to have separate and independent transcripts of record on appeal consisting of the original papers in respect to these appeals. Deponent respectfully submits that but one set of original papers can be made up. 741

(c) Among the grounds of Reconstruction Finance Corporation's objections to the approval of the Special Master's reports were that he erred in recommending allowances totalling \$1,088,876.49 for the reason that such sum is grossly excessive, and are not justified. If the allowances recommended are paid, the total cost of the reorganization will exceed \$1,500,000 since \$350,651.79 has already been paid. This latter amount included the following:

742	Allowances to Special Master James G. Moore	\$73,100.00
	Interim allowances to 77B Trustees of the Debtor	40,000.00
	Interim allowance to attorney for 77B Trustees of the Debtor	50,000.00
	Reorganization expense paid by 77B Trustees of the Debtor out of Special Fund turned over to them pursuant to court orders	41,765.69
	New Corporation — on account of organization expenses	50,000.00
743	Allowance to Special Master MacDonald	1,500.00
	Allowances to individual attorneys or firms for services in connection with specific items of collateral	37,659.94
	Fees and expenses paid to corporate trustees or their attorneys out of the Trust Funds or from sources other than the Trust Funds, since inception of these proceedings	56,626.16
	Total	<u>\$350,651.79</u>

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Reconstruction Finance Corporation also objected to the confirmation of said reports upon the grounds that no provision has been made for final allowance to Special Master Moore or for the payment of additional necessary initial expenses of the New Corporation, and that as shown by the facts set forth in its objections filed with the Special Master an over-all cost of not more than  $1\frac{3}{4}$  to 2% of the bonds reorganized can be justified and that in order to restrict the costs and expenses of this reorganization to an amount consistent with costs in comparable reorganizations the total allowances under consideration herein should not exceed \$750,000.

(d) Deponent believes that in addition to committing grievous error in awarding the amounts in the aforesaid

fourteen (14) orders from which Reconstruction Finance Corporation has appealed, the District Court further erred in finally fixing and directing the payment of any of these general allowances while at the same time reserving consideration of other applications in substantial amounts. Deponent believes that before any allowances for general services in these proceedings can consistently be made, the total cost of the reorganization should be fixed and is advised that this position is supported by the recent decision of the Circuit Court of Appeals for the Seventh Circuit in the case of *In re Irving Austin Building Corp.*, decided November 3, 1938 and reported in C.C.H. Bankruptcy Service, Section 51426. The total allowances recommended by the Special Master plus the \$350,651.79 already granted and paid amount to almost \$1,500,000. While the court has reserved decision on a large number of these allowances, those already awarded are so excessive in amount as to indicate clearly that the total cost of this reorganization will be largely in excess of \$1,500,000 unless the allowances which have already been awarded are drastically reduced in amount. 745

(14) It will thus be seen that in addition to the contention that substantially all of the allowances made to individual applicants are excessive, appellants have raised questions with respect to each order which require that consideration be given to the total allowances made as well as to the indicated total cost of the reorganization which it is shown herein will be largely in excess of \$1,500,000. 746

(15) The reason why an order to show cause is requested is that it will be necessary to serve 42 separate attorneys or firms, some of whom are outside the state and deponent desires that this court direct that service of a copy of the order to show cause applied for and of this affidavit, may be made either personally or by mail within a time to be fixed therein. Reconstruction Finance Corporation also desires to have this application heard on the next motion day in order that it may promptly file the designation required by the Rules. 747

748 16. No previous application has been made for the relief herein requested.

749 Wherefore, deponent respectfully prays that an order in the form submitted herewith be made herein requiring the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in the above-entitled proceeding or their respective attorneys appearing herein, to show cause at a time and place to be fixed in said order, why an order should not be made herein consolidating for all purposes the aforesaid appeals of Reconstruction Finance Corporation from the orders hereinabove referred to as well as the appeals hereinabove referred to, taken by the new Prudence-Bonds Corporation, directing that one transcript of record covering all of said appeals be filed and directing the Clerk of this Court to accept such transcript of record, consisting of the original papers upon which said appeals are to be heard, when duly certified by the Clerk of the United States District Court for the Eastern District of New York, and why such other and further relief as may be just and proper in the premises should not be granted to said Reconstruction Finance Corporation.

JEROME THRALLS

(Sworn to March 16, 1939.)

750 Note of Issue of R. F. C. on motion to consolidate appeals, etc.

UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.

[CAPTION]

Motion of RECONSTRUCTION FINANCE CORPORATION, appellant, brought on by order to show cause dated March



16, 1939 made by Hon. Harrie B. Chase, United States Circuit Judge for the Second Circuit, returnable March 20, 1939, at 10:30 A.M. 751

The motion is for an order consolidating for all purposes the appeals taken by the appellant from fourteen (14) separate orders of the United States District Court for the Eastern District of New York, granting allowances in this proceeding for reorganization under the Bankruptcy Act, as well as the appeals taken from the same orders by the Prudence-Bonds Corporation, the New Corporation organized pursuant to the plan confirmed in the proceeding, and an additional appeal taken by said Prudence-Bonds Corporation from a further order of the District Court which denied its motion for a reargument of the motion, as a result of which the aforesaid fourteen orders were made. 752

The District Court applied the provisions of Chapter X, Article XIII of the Chandler Act (11 U. S. C. A., Secs. 241 et seq) to the applications for allowances involved on these appeals. The motion therefore also asks that the Clerk of this Court be directed to accept a transcript of record consisting of the original papers upon which the orders appealed from were based, as required by Sec. 250 of said Act, when duly certified by the District Court Clerk.

JAMES F. DEALY, Office & P. O. Address, No. 30 Broad Street, New York, N. Y., attorney for Reconstruction Finance Corporation, appellant and moving party.

The order to show cause directs that the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in the proceedings or their respective attorneys show cause why the order applied for should not be made. 753

The foregoing note of issue is stamped "Filed March 17, 1939, U. S. Circuit Court of Appeals, Second Circuit, William Parkin, Clerk."

754 **Order consolidating appeals and directing they be heard on original papers.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
SECOND CIRCUIT.**

At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the United States Court House in the City of New York, on the 22nd day of March, one thousand nine hundred and thirty-nine.

Present:

755 **HON. LEARNED HAND,**  
**HON. CHARLES C. CLARK,**  
Circuit Judges.  
**HON. ROBERT P. PATTERSON,**  
District Judge.

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[CAPTION]

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A motion having been made herein by counsel for the Reconstruction Finance Corporation and Prudence-Bonds Corporation (New Corporation) to consolidate the appeals herein and hear the same upon the original papers of the District Court.

756 **Upon consideration thereof it is**

**Ordered that said motions be and hereby are granted, without prejudice to a motion to dismiss said appeals.**

**WM. PARKIN,**  
Clerk.

**Notice of Motion by Prudence-Bonds Corporation to consolidate appeal of Edward Endelman, and ano.**

757

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

**[CAPTION.]**

**SIRS:**

PLEASE TAKE NOTICE, that upon the annexed affidavit of Charles M. McCarty, duly verified the 6th day of April, 1939, the undersigned will move this Court in the Courtroom thereof, in the United States Courthouse, Foley Square, in the Borough of Manhattan, City, County and State of New York, on the 10th day of April, 1939, at 10:30 o'clock in the forenoon of said day, or as soon thereafter as counsel can be heard, for an order consolidating an appeal taken herein by Edward Endelman, Esq. and Jacob A. Freedman, Esq., by notice of appeal dated March 22, 1939, with the other appeals in this matter now pending in this Court, which have heretofore been consolidated by order of this Court made herein on March 22, 1939, and providing that any necessary additional papers on appeal be included in the consolidated transcript of record, consisting of the original papers, and granting such other and further relief as to this Court may seem just and proper in the premises.

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Dated: New York, N. Y., April 6, 1939.

Yours, etc.,

CHARLES M. MCCARTY,  
Attorney for Prudence-Bonds  
Corporation (New Corporation)

Office & P. O. Address,  
No. 100 E. 42nd Street,  
Borough of Manhattan,  
New York, N. Y.

760 To:

EDWARD ENDELMAN, Esq., Pro se,  
299 Broadway,  
New York, N. Y.

JACOB A. FREEDMAN, Esq., Pro se,  
32 Court Street,  
Brooklyn, N. Y.

JAMES F. DEALY, Esq.,  
Attorney for Reconstruction Finance  
Corporation, intervenor.  
30 Broad Street,  
New York, N. Y.

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**Affidavit in support of motion to consolidate Endelman  
appeals.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

[ CAPTION ]

762 STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

CHARLES M. McCARTY, being duly sworn, deposes and  
says:

1. I am an attorney and counsellor at law duly admitted  
to practice in this Court and in the above entitled reorgan-  
ization proceedings, I am attorney for Prudence-Bonds Cor-  
poration, the New Corporation formed pursuant to the  
Amended Plans of Reorganization approved and confirmed  
in said proceedings. I am familiar with the prior proceed-  
ings had herein and I have knowledge of the facts herein-



after set forth and make this affidavit in support of an application by said Prudence-Bonds Corporation, for an order consolidating with the other appeals hereinafter referred to, an appeal taken by Edward Endelman, Esq. and Jacob A. Freedman, Esq., appellants appearing pro se, from an order denying their application for an allowance for services.

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2. By orders made and entered in said reorganization proceedings and dated March 11, 1936, May 6, 1936, eighteen (18) orders dated January 18, 1938, and orders dated July 21, 1937, June 3, 1938 and June 6, 1938, respectively, there was referred to James G. Moore, Esq., as Special Master, the consideration of the persons or corporations to whom allowances for services or expenses should be made under the Plans of Reorganization confirmed in said proceedings and the provisions of Section 77B of the Bankruptcy Act, for written report and recommendation with his opinion thereon. Thereafter, approximately sixty-one (61) applications for allowances for services and disbursements were filed with, and hearings thereon held before, said Special Master and Prudence-Bonds Corporation (New Corporation), filed an answer and objections to substantially all of said applications for allowances.

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3. The Special Master, thereafter, filed in said reorganization proceedings, an Intermediate Report, dated November 30, 1938, wherein he recommended that allowances for services and disbursements be granted, in the aggregate sum of \$462,014.08, to a number of the applicants, recommended that other applications be denied and reserved for future determination the applications for allowances filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing in these proceedings.

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4. By a notice of motion dated December 1, 1938, returnable December 9, 1938, Prudence Securities Advisory

766 Group, an intervenor, made an application for an order passing upon said Intermediate Report of the Special Master, taking such action thereon as the Court might deem advisable and granting such other and further relief, as to the Court might seem just and proper. Upon the return day said motion was adjourned to December 16, 1938, so as to await the coming in of the Special Master's Report on the remaining applications for allowances then pending before him.

767 5. The Special Master subsequently, filed in said reorganization proceedings, an Intermediate Report dated December 12, 1938, wherein he recommended that allowances for services and disbursements in the aggregate sum of \$626,862.41, be granted to the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, and gave written notice to the parties in interest, that said Report would be handed up to the District Judge in charge of these proceedings on December 16, 1938, for consideration in conjunction with his Report dated November 30, 1938. A hearing upon said two (2) Reports was accordingly held before the District Judge on December 16, 1938, and Prudence-Bonds Corporation (New Corporation) and other parties in interest, filed objections and exceptions to the confirmation of said Reports, upon the ground, among  
768 others, that the total allowances recommended by the Special Master in the aggregate sum of \$1,088,876.49, plus all prior allowances granted in these reorganization proceedings, was excessive and unreasonable and beyond the ability of the Estate to pay.

6. Thereafter, on February 1, 1939, Hon. Robert A. Inch, District Judge, filed an opinion modifying the Special Master's Report of November 30, 1938, by increasing in the aggregate sum of \$19,500.00 the allowances recommended therein and by reserving for future determination the application of the Trustees of New York Investors, Inc. for

an allowance in the sum of \$50,954.64, for reimbursement of expenses, which the Special Master recommended be denied. As thus modified, the District Judge, approved the Special Master's Report of November 30, 1938. By his opinion, the District Judge, also reserved for future determination the allowances recommended by the Special Master in his Report dated December 12, 1938, for the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and their respective attorneys appearing herein, in the aggregate sum of \$626,862.41. The District Judge also ruled, that each party to whom an allowance had been awarded or denied might submit a separate order covering the particular application involved, but that there might be included in a single order the matters not covered by separate orders submitted by February 17, 1939.

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7. Separate orders on allowances were thereafter made in said reorganization proceedings by Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of the Eastern District Court as follows:

(a) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$65,720.05, were granted to Prudence Securities Advisory Group and Percival E. Jackson & Clinton T. Roe, Esqs., its attorneys herein, for services and disbursements.

(b) Order, dated February 14, 1939, whereby, among other things, allowances in the aggregate sum of \$43,786.07, were granted to Bondholders' Reorganization Committee for the Sixth and Twelfth Series, sometimes called the "Metz Committee", and Rabenold, Scribner & Miller, Esqs., and Mark Hyman, Esq., its attorneys herein, for services and disbursements.

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(c) Order, dated February 16, 1939, whereby, among other things, additional allowances in the aggregate sum of \$162,500.00, were granted to Charles H. Kelby and Clifford S. Kelsey, as Trustees of the Debtor, and George C. Wildermuth, Esq., their attorney herein, for services.

(d) Order, dated February 16, 1939, whereby, among other things, allowances in the aggregate sum of \$38,-

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201.96, were granted to Bondholders' Protective Committee, for Prudence-Bonds, Sixteenth Series, and Rogers & Whitaker, Esqs., and Latson & Tambllyn, Esqs., its attorneys herein, for services and disbursements.

(e) Order, dated February 16, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Samuel Silbiger, Esq., attorney for George E. Eddy, for services.

(f) Order, dated February 21, 1939, as amended by order, dated February 24, 1939, whereby, among other things, an allowance in the sum of \$71,623.19, was granted to Frueauff, Burns, O'Brien & Ruch, Esqs., and Powell & Ruch, Esqs., attorneys for the Debtor herein, for services and disbursements.

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(g) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$28,056.78, were granted to Independent Prudence Bondholders Protective Committee and George M. Jaffin & Leonard Klaber, Esqs., its attorneys herein, for services and disbursements.

(h) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$20,000.00, was granted to Delafield, Marsh, Porter & Hope, Esqs., attorneys for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, on account for services.

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(i) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$14,714.02, was granted to General Committee for Prudence Securities, for services and disbursements.

(j) Order, dated February 21, 1939, whereby, among other things, allowances in the aggregate sum of \$13,696.26, were granted to Tenth Series Committee and Grosvenor Calkins, Esq., its attorney herein, for services and disbursements.

(k) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$5,000.00, was granted to Jacob A. Freedman, Esq., as associate counsel for General Committee for Prudence Securities, for services.



(l) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,500.00, was granted to Archibald Palmer, Esq., attorney for the Mayer Committee, for services. 775

(m) Order, dated February 21, 1939, whereby, among other things, an allowance in the sum of \$1,073.67, was granted to MacIntyre, McNally & Downey, Esqs., special counsel for City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Third and Seventh Series, for services and disbursements.

(n) Order, dated February 21, 1939, whereby, among other things; (1) the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified; (2) allowances in the aggregate sum of \$7,500.00, were granted to Prudence Bondholders Protective Association and Kadel, Sheils & Weiss, Esqs., its attorneys herein, for services and disbursements; (3) an allowance in the sum of \$540.12, was granted to Cummings & Lockwood, Esqs., special counsel for Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth Series, for services and disbursements; and (4) the application filed by the Trustees of New York Investors, Inc., for an allowance for disbursements, and the applications filed by the eleven (11) Corporate Trustees of the eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination. 776

(o) Order, dated February 21, 1939, which denied the application of your petitioner, Prudence-Bonds Corporation (New Corporation), for a reargument of the application for the consideration of the Reports of Special Master James G. Moore on allowances, dated November 30, 1938 and December 12, 1938. 777

8. Thereafter, after application made upon notice to all interested parties, an order was made and entered in said reorganization proceedings on March 15, 1939, granting leave to Prudence-Bonds Corporation (New Corporation), to take and prosecute appeals to this Court, from each and all of the foregoing orders. A similar application was also

778 made upon notice to the interested parties, by Reconstruction Finance Corporation, an intervenor, and a similar order dated March 15, 1939, was also made and entered in said reorganization proceedings, granting leave to said Reconstruction Finance Corporation, to take and prosecute appeals to this Court from each and all of said orders except the order described above in paragraph "7", subdivision "(o)".

779 9. Prudence-Bonds Corporation (New Corporation), thereupon duly appealed from each and all of said orders, by filing on March 15, 1939, in the office of the Clerk of the District Court, a separate notice of appeal and a bond for costs with respect to each of said orders. Appeals from each and all of said orders except the order described above in paragraph "7", subdivision "(o)", have also been duly taken by Reconstruction Finance Corporation by notices of appeal filed in the office of the Clerk of the District Court on March 15, 1939.

780 10. Thereafter, applications were made to this Court by Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation, for an order consolidating the said appeals and providing, that they be heard upon a transcript of record of the original papers, pursuant to the provisions of Section 250 of the Bankruptcy Act. Said applications which came on to be heard before this Court on March 20, 1939, were in all respects granted by order dated March 22, 1939, a copy of which is hereto annexed marked "Exhibit A" and hereby made a part hereof. For a full statement of the facts, circumstances and grounds upon which said motions were made reference is respectfully made to the original motion papers, which are on file in this Court.

11. In addition to the appeals from the orders enumerated in paragraph "7" above, taken as aforesaid, by Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation appeals to this Court,

from some or parts of some of the same orders have also been taken by eighteen (18) other parties herein. By virtue of subdivision "(k)" of Rule 75 of the Rules of Civil Procedure providing that, "when more than one appeal is taken to the same court from the same judgment, a single record shall be prepared containing all the matter designated or agreed upon by the parties, without duplication" and also by virtue of General Order 36 of the General Orders in Bankruptcy, all of said appeals are to be heard by this Court upon a single consolidated transcript of record consisting of the original papers.

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12. In addition to the orders on allowances enumerated in paragraph "7" above, orders on allowances were also made and entered in said reorganization proceedings as follows:

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(a) Order dated February 21, 1939, whereby, an allowance in the sum of \$1,500.00, was granted to Edward Endelman, Esq., for services as attorney for Protective Committee of Preferred Stockholders of The Prudence Company, Inc.

(b) Order dated February 21, 1939, denying the joint application of Cullen & Dykman, Edward Endelman and Jacob A. Freedman, Esqs., for an allowance for services as attorneys for General Committee for Prudence Securities.

13. By notice of appeal dated March 22, 1939, Edward Endelman, Esq. and Jacob A. Freedman, Esq., have appealed from the order dated February 21, 1939, described above in subdivision "(b)" of paragraph "12" whereby the joint application of Cullen & Dykman, Edward Endelman & Jacob A. Freedman, Esqs., for an allowance for services, as attorneys for General Committee for Prudence Securities, was denied. This appeal was not, however, included in the appeals consolidated by the order of this Court dated March 22, 1939, as aforesaid, for the reason that at the time the applications for such order were made no appeal had yet been taken from said order dated February

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784 21, 1939. Messrs. Endelman and Freedman, however, with respect to said appeal only, proposed to print a separate record on appeal, and have advised your deponent that they will not stipulate to consolidate their appeal with the other appeals from orders granting or denying applications for allowances. It is, therefore, respectfully submitted, that all of the reasons urged in support of the applications heretofore made to this Court by Prudence-Bonds Corporation and Reconstruction Finance Corporation, to consolidate the other appeals from orders on allowances, apply with equal force to the appeal taken by Messrs. Endelman and Freedman. Indeed, except for their notice of appeal and the order of February 21, 1939, appealed from by them, all of the other papers upon which  
785 their said appeal will be heard have necessarily been included in the designation of the papers to be included in the consolidated transcript of record consisting of the original papers. Messrs. Endelman and Freedman, together with Messrs. Cullen & Dykman, were joint counsel for General Committee for Prudence Securities, an intervenor, and filed a joint petition for allowance, verified May 7, 1938. By the order dated February 21, 1939, appealed from by Messrs. Endelman and Freedman, their joint application for an allowance was denied. By a separate order dated February  
786 21, 1939 (described above in subdivision "(k)" of paragraph "7"), Mr. Freedman, however, upon the same joint petition for an allowance, of Cullen & Dykman, Edward Endelman and Jacob A. Freedman, verified May 7, 1938, was granted an allowance of \$5,000.00. No appeal from this later order has been taken by Messrs. Endelman or Freedman, but appeals therefrom have been taken by Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation. The essential papers on appeal are, therefore, the same with respect to the appeals from both orders as aforesaid, and it seems necessary and proper that the appeal from the order denying the joint petition of Messrs. Endelman and Freedman for an allowance, should



be considered upon the same record on appeal and together with the consolidated appeals as aforesaid, including the appeal of Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation, from the order granting upon the same joint petition an allowance to Mr. Freedman. Moreover, it seems necessary and proper that all appeals from orders granting or denying allowances should be considered together and upon a single consolidated transcript of record, for the reason that an important issue upon the appeals is whether the aggregate total amount of all allowances granted is excessive, unreasonable and beyond the ability of the Estate to pay, under all of the facts and circumstances herein.

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WHEREFORE, on behalf of Prudence-Bonds Corporation, the New Corporation as aforesaid, your deponent respectfully prays, that an order be made herein, consolidating the appeal taken herein by Edward Endelman, Esq., and Jacob A. Freedman, Esq., by notice of appeal dated March 22, 1939, with the other appeals in this matter now pending in this Court which have heretofore been consolidated as aforesaid by order of this Court dated March 22, 1939, and providing that any necessary additional papers on appeal be included in the consolidated transcript of record consisting of the original papers.

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CHARLES M. McCARTY

(Sworn to April 6, 1939.)

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Exhibit A.

This exhibit is a copy of the order of March 22, 1939, which is printed in full herein at folios 754 to 756.

790 **Affidavit of Edward Endelman and ano. in opposition to motion to consolidate.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

[ CAPTION ]

STATE OF NEW YORK	} ss.:
CITY OF NEW YORK	
COUNTY OF NEW YORK	

791 **EDWARD ENDELMAN and JACOB A. FREEDMAN, each being duly sworn, depose and say:**

**FIRST:** Deponents are the appellants referred to in the affidavit of Charles M. McCarty, attorney for Prudence-Bonds Corporation, in the latter's application to consolidate deponents' appeal with various other consolidated appeals now pending in this Court. This affidavit is submitted in opposition to the motion to consolidate.

792 **SECOND:** Deponents have appealed from an order dated, February 21st, 1939 made and entered in the United States District Court for the Eastern District of New York (Judge Inch) which confirms a report made by Hon. James G. Moore, Special Master, recommending that no allowance whatsoever be granted to deponents as associate counsel to the General Committee for Prudence Securities (a bondholders' committee) and which denies to deponents, as associate counsel, any allowance whatsoever. That order is not the same as the order from which the movant has appealed and concerning which there is pending the aforesaid consolidated appeals. Judge Inch granted deponents the right to enter their own order. The order entered by the movant and from which it appealed does not cover the rights of deponents as appellants herein. A separate order which

grants to appellant Freedman, *individually*, an allowance of \$5,000. has been appealed from by Prudence-Bonds Corporation.

793

THIRD: Deponents were associate counsel to the General Committee for Prudence Securities which was awarded an allowance of \$11,000. After rendering services for a period of 2 years they were denied an allowance on the *sole* ground that deponent Endelman represented an alleged conflicting interest, in that prior to the intervention of the General Committee for Prudence Securities aforesaid he had represented another Committee, to wit, the Protective Committee for the Preferred Stockholders of The Prudence Company, Inc. The Prudence preferred stockholders are not stockholders of this Debtor nor are they creditors thereof. They could not, therefore, partake in any plan. Neither the Special Master nor the Court indicated a single item of service rendered by deponent Endelman that established a conflict of interest. The finding of the Special Master states that it "would appear" that there was a conflict. The said preferred stockholders intervened in this reorganization proceeding, to assist in procuring for the Debtor's bondholders full repayment of principal and accrued interest. The more procured for the bondholders the less would be the liability of The Prudence Company, Inc. on its guaranty to those bondholders. The Prudence Company, Inc. had failed to intervene in this proceeding. At all events, the said preferred stockholders remained intervenors herein only during the preliminary period *up to about the time the Debtor proposed its plan*. When the Debtor did propose its plan the Prudence preferred stockholders withdrew their intervention and the General Committee for Prudence Securities was then granted leave to intervene.

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FOURTH: Deponents, therefore, have appealed intending to submit to this Court the single question, to wit: Did appellant Endelman represent conflicting interests, as a matter of fact? If he did not, then the order appealed from

796 obviously must be reversed. Furthermore, are not appellants entitled to an allowance, assuming a conflicting representation by appellant Endelman, on the authority of *Cromwell v. Curtis*, 99 Fed. 2nd 810 (C.C.A. 2 Nov. 1938, opinion by Judge L. Hand)? Accordingly, deponents have served and filed a statement of the points to be presented.

797 FIFTH: Deponents proposed to print their record on appeal and to confine the record to such documents as relate to them as appellants herein, to wit: the joint application for an allowance, the answers to the said application insofar as they relate to appellants, the report of the Special Master only insofar as it relates to deponents, the opinion of the Court and the sundry usual matters such as the order appealed from, statement under Rule 13, etc. The Special Master's report covers the applications of about 18 attorneys and 11 corporate Trustees besides numerous committees.

SIXTH: The consolidated record on appeal, referred to by the movant will consist of 646 separate documents, all *typewritten*, some of which consist of 100 or more pages and at least one of them consists of 800 pages of single spaced typewritten matter. Deponents have been served with a notice to that effect. It is with that miniature library that the movant asks that appellants' appeal be consolidated.

798 SEVENTH: Deponents respectfully pray to be granted their right to print the simple record as it relates to their particular question and that the said record be not merged with 646 irrelevant documents having no bearing whatsoever on the issue presented. *This will obviate a tremendous waste of time by this Court in seeking in the aforesaid mass of 646 typewritten documents, the particular folios to which appellants will want to refer in their brief.* It will obviate confusion. Deponents should not be required to depend upon a typewritten record when it is their desire to present a printed record for the convenience of the Judges of this Court and all parties in interest.



WHEREFORE, deponents respectfully pray that the motion to consolidate be denied and that they be permitted to file a printed record consisting of such documents aforementioned as relate to the question presented by their appeal. 799

EDWARD ENDELMAN /  
JACOB A. FREEDMAN

[Sworn to April 10, 1939.]

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**Order consolidating Endelman appeal.**

**UNITED STATES CIRCUIT COURT OF APPEALS,**

**SECOND CIRCUIT.**

800

At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the United States Court House in the City of New York, on the 10th day of April, one thousand nine hundred and thirty-nine.

**Present:**

Hon. THOMAS W. SWAN,

Hon. HARRIE B. CHASE,

Hon. CHARLES C. CLARK,

Circuit Judges.

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[CAPTION]

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801

A motion having been made by Prudence-Bonds Corporation for an order consolidating the appeal taken by Edward Endelman and Jacob A. Freedman from the order entered in the United States District Court for the Eastern District of New York on the 21st day of February, 1939, with a consolidated appeal now pending in this Court from various orders made in the said District Court, and the matter having come on for hearing on the 10th day of April,

802 1939, pursuant to a notice of motion, dated the 6th day of April, 1939, and an affidavit sworn to on the 6th day of April, 1939 by Charles M. McCarty in support of the motion, and an affidavit sworn to on the 10th day of April, 1939, by Edward Endelman and Jacob A. Freedman having been filed in opposition;

Upon consideration thereof it is

803 ORDERED that the said motion be and the same hereby is granted with leave to said Edward Endelman and Jacob A. Freedman to print a record on appeal which shall include only such documents as relate to the question presented for determination by their appeal in accordance with the statement of points served by them as set forth in their aforesaid affidavit.

WM. PARKIN  
Clerk.

**Motion by President and Directors of the Manhattan Company to consolidate appeals, etc.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

804

[CAPTION]

SIRS:

PLEASE TAKE NOTICE, that upon the annexed affidavit of J. M. Richardson Lyeth verified the 12th day of April, 1939, the undersigned will move this Court in the Courtroom thereof, at the United States Courthouse, Foley Square, in the Borough of Manhattan, City, County and State of New York, on the 17th day of April, 1939, at 10:30 o'clock in the forenoon of said day, or as soon thereafter as counsel can

be heard, for an order consolidating with the appeals of Prudence-Bonds Corporation (New Corporation) and the Reconstruction Finance Corporation, heretofore consolidated by order of this Court made and entered on March 22, 1939, the appeals taken herein by President & Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, and Carter, Ledyard & Milburn; City Bank Farmers Trust Company, as Trustee of Prudence Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, and Delafield, Marsh, Porter & Hope; Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, and Cullen & Dykman; Simpson, Thacher & Bartlett; Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series, and Newman & Bisco, and the appeals of such other parties as should in the discretion of the Court be consolidated therewith; and providing that one transcript of record, consisting of the original papers of the District Court, shall cover all of said appeals, and further providing that all of said appeals shall be heard and argued together at the same time, and granting such other and further relief as to this Court may seem just and proper in the premises.

Dated, April 12th, 1939.

Yours, etc.

MACLAY, LYETH & WILLIAMS,  
Attorneys for President & Directors of  
The Manhattan Company, as Trustee  
of Prudence Bonds, Fifth and Ninth  
Series,

Office & P. O. Address  
No. 55 Liberty Street,  
Borough of Manhattan,  
City of New York.

(The above Notice of Motion is addressed to attorneys for all interested parties.)

808

**Affidavit in support of President, etc. motion to consolidate  
appeals, etc.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

[CAPTION]

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

**J. M. RICHARDSON LYETH, being duly sworn, deposes and  
says:**

809

1. I am an attorney at law duly admitted to practice in this Court and a member of the firm of Maclay, Lyeth & Williams, attorneys for President and Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series. I am familiar with the prior proceedings had herein, and I have knowledge of the facts hereinafter set forth, and make this affidavit in support of the application by said President and Directors of The Manhattan Company for an order consolidating with the appeals taken by Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation, heretofore consolidated by an order of this Court made and entered on March 22, 1939, the appeals taken herein by President and Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, and Carter, Ledyard & Milburn; City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, and Delafield; Marsh, Porter & Hope; Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, and Cullen & Dykman; Simpson, Thacher & Bartlett; Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series, and Newman and Bisco, and the appeals of such other parties as should in the discretion of this Court be consolidated therewith.

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2. The appellants named above in paragraph (1) have all taken appeals from substantially the same parts of an order of the United States District Court, Eastern District of New York, made by Hon. Robert A. Inch, District Judge, and entered in the office of the Clerk of said Court on February 21, 1939, whereby, among other things, the reports of Special Master James G. Moore, on allowances, dated November 30, 1938 and December 12, 1938, were modified and confirmed as modified, and the applications filed herein by the eleven (11) Corporate Trustees of the Eighteen (18) Series of Bonds issued by the Debtor and by their respective attorneys appearing herein, for allowances for services and disbursements, were held in abeyance for future determination.

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3. By orders to show cause dated March 16, 1939, applications were made to this Court by said Prudence-Bonds Corporation (New Corporation), and said Reconstruction Finance Corporation for an order consolidating the appeals taken by said parties and providing that said appeals be heard upon one transcript of record consisting of the original papers, pursuant to the provisions of Section 250 of the Bankruptcy Act. Said applications were heard by this Court on March 20, 1939, and were in all respects granted by an order dated March 22, 1939, a copy of which is hereto annexed, marked Exhibit "A" and made a part hereof. For a full statement of the facts, circumstances and grounds upon which said motions were made reference is respectfully made to the original motion papers which are on file in this Court.

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4. By notice of motion dated April 6, 1939, an application was made by Prudence-Bonds Corporation (New Corporation) to consolidate with said appeals theretofore consolidated the appeal taken herein by Edward Endelman, Esq. and Jacob A. Freedman, Esq. Said motion was granted by order of this Court entered April 10, 1939, and a copy thereof is annexed hereto and marked Exhibit "B" and made a part hereof.

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5. Upon information and belief, no party has moved to consolidate the appeals taken by President and Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, and Carter, Ledyard & Milburn; City Bank Farmers Trust Company, as Trustee of Prudence Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, and Delafield, Marsh, Porter & Hope; Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series, and Cullen & Dykman; Simpson, Thacher & Bartlett; Manufacturers Trust Company, as Trustee of Prudence Bonds, Twelfth and Thirteenth Series, and Newman and Bisco. Prudence-Bonds Corporation (New Corporation), in the affidavit of Charles M. McCarty annexed to said

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notice of motion dated April 6, 1939, apparently explains as follows the reason for its failure to include these appeals in its motion to consolidate: "In addition to the appeals from the orders enumerated in paragraph '7' above, taken as aforesaid, by Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation appeals to this Court, from some or parts of some of the same orders have also been taken by eighteen (18) other parties herein. By virtue of subdivision '(k)' of Rule 75 of the Rules of Civil Procedure providing that, 'when more than one appeal is taken to the same court from the same judgment, a single record shall be prepared containing all the matter designated or agreed upon by the parties, without duplication and also by virtue of General Order 36 of the General Orders in Bankruptcy, all of said appeals are to be heard by this Court upon a single consolidated transcript of record consisting of the original papers.'"

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6. Deponent verily believes that there may be some question as to whether Rule 75, Subdivision (k) thereof, effects an automatic consolidation of all appeals from the same order, since said section does not specifically provide that all such appeals shall be heard and argued together but merely provides for one record.

7. Deponent respectfully submits that all of the said appeals should be consolidated and argued and heard at the same time upon the same record for the following reasons: All of said appeals, in so far as they are taken from the said order, involve a determination of the same question of law; that as has been hereinbefore pointed out the appeals of two of said parties have already been consolidated by order of this Court; that under Section 250 of Chapter X of the Bankruptcy Act as amended (Chandler Act), these appeals must be heard summarily on the original papers, and this Court by said order of March 22, 1939 directed that one transcript of record, consisting of the original papers, should be filed to cover the said appeals of Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation.

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WHEREFORE, on behalf of President and Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, your deponent prays that an order be made herein consolidating with the appeals of Prudence-Bonds Corporation (New Corporation) and the Reconstruction Finance Corporation, heretofore consolidated by order of this Court made and entered on March 22, 1939, the appeals taken herein by President and Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series, and Carter, Ledyard & Milburn; City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AA, Third, Fourth, Seventh and Seventeenth Series, and Delafield, Marsh, Porter & Hope; Brooklyn Trust Company, as Trustees of Prudence-Bonds, Eighth Series, and Cullen & Dykman; Simpson, Thacher & Bartlett; Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series, and Newman & Bisco, and the appeals of such other parties as should in the discretion of this Court be consolidated therewith; and providing that one transcript of record, consisting of the original papers of the District Court, shall cover all of said appeals, and

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820 granting such other and further relief as to this Court may seem just and proper in the premises.

J. M. RICHARDSON LYETH.

(Sworn to April 12, 1939).

The foregoing affidavit has annexed thereto (a) a copy of order made March 22, 1939, printed in full herein at folios 754 to 756, and (b) copy of order made April 10, 1939, printed in full herein at folios 800 to 803.

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**Order consolidating appeals of President & Directors of the  
Manhattan Company, et al.**

821 UNITED STATES CIRCUIT COURT OF APPEALS,  
SECOND CIRCUIT.

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At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held in the United States Courthouse, in the City of New York, on the 20th day of April, one thousand nine hundred and thirty-nine.

Present:

HON. LEARNED HAND

HON. AUGUSTUS N. HAND

HON. ROBERT P. PATTERSON

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Circuit Judges.

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[CAPTION]

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A motion having been made herein by counsel for the appellants to consolidate the appeals herein with that of the Prudence Bonds Corporation (New Corporation) et al;

Upon consideration thereof it is

Ordered that said motion be and hereby is granted.

WILLIAM PARKIN

Clerk



Opinion of C. C. A. 2d, July 26, 1939.

UNITED STATES CIRCUIT COURT OF APPEALS,

823

FOR THE SECOND CIRCUIT.

[CAPTION]

Before:

SWAN, AUGUSTUS N. HAND and PATTERSON,  
Circuit Judges.

Consolidated appeals from the District Court of the  
United States for the Eastern District of New York.

PER CURIAM:

We are of opinion that the district court should have  
passed on the petitions for allowances to the corporate trustees and their attorneys at the same time that it passed on the other petitions for allowances. The objection that the corporate trustees had not yet accounted was not formidable; it could have been met by simply directing that payment of allowances to corporate trustees be withheld until conclusion of the accountings. As the situation stands, the aggregate of administration costs, always an important factor in determining the reasonableness of allowances, is wholly uncertain. On the appeal of Bank of Manhattan Company and others in the same position, the order of the district court deferring consideration of applications for allowances by the corporate trustees and their attorneys is reversed, and the matter remanded to the district court with direction to consider the applications and determine the allowances to be given. Decision of the other appeals will be held in abeyance pending disposition by the district court on the applications for allowances by the corporate trustees and their attorneys, which disposition may be brought to our attention by a supplemental record.

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The foregoing opinion is stamped "Filed July 26, 1939,  
U. S. Circuit Court of Appeals, Second Circuit, D. E. Roberts, Clerk."

826 Nov. 30, 1939 motion by Prudence Securities Advisory Group, et al., to dismiss appeals.

UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.

[CAPTION]

SIRS:

827 PLEASE TAKE NOTICE that upon the annexed affidavit of PERCIVAL E. JACKSON, duly verified November 30, 1939 and upon all papers and proceedings had herein, the undersigned will move this Court at a Term for Motions thereof to be held in the Court Room of the Circuit Court of Appeals for the Second Circuit, at the Court House, Foley Square, Borough of Manhattan, City and State of New York, on the 4th day of December, 1939 at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an order dismissing the appeals of Prudence-Bonds Corporation (the new corporation) and Reconstruction Finance Corporation on the ground that leave to take such appeals was not allowed by this Court, pursuant to Section 250 of the Bankruptcy Act of 1938 (commonly known as the Chandler Act) or, in the alternative, that the question of law involved herein be certified to the Supreme Court of the  
828 United States.

Dated, New York, November 30, 1939.

Yours, etc.,

PERCIVAL E. JACKSON and CLINTON T. ROE  
Attorneys for Appellee, Prudence Securities Advisory Group,

Office & P. O. Address,  
68 William Street,  
Borough of Manhattan,  
City of New York.

To:

CHARLES M. McCARTY, Esq.,  
 Attorney for Appellant, Prudence-Bonds  
 Corporation (new corporation)  
 100 East 42nd Street,  
 New York City.

829

JAMES F. DEALY, Esq.,  
 Attorney for Appellant, Reconstruction  
 Finance Corporation,  
 30 Broad Street,  
 New York City.

Affidavit in support of Prudence Securities Advisory Group  
 motion to dismiss.

830

UNITED STATES CIRCUIT COURT OF APPEALS,  
 FOR THE SECOND CIRCUIT.

[ CAPTION ]

STATE OF NEW YORK  
 CITY OF NEW YORK  
 COUNTY OF NEW YORK

ss.:

PERCIVAL E. JACKSON, being duly sworn, deposes and  
 says:

831

That he appears on behalf of the appellee, Prudence  
 Securities Advisory Group and with CLINTON T. ROE, is one  
 of the appellees herein.

These appeals were taken by Prudence-Bonds Corpora-  
 tion (the new corporation) and Reconstruction Finance Cor-  
 poration from an order made by Hon. Robert A. Inch, one  
 of the Judges of the United States District Court for the  
 Eastern District of New York, entered the 14th day of Feb-

832 January, 1939, which allowed the Prudence Securities Advisory Group the sum of Six Thousand Five Hundred (\$6,500.) Dollars for compensation and \$19,042.69 for disbursements (including accountants' fees), and Forty Thousand (\$40,000.) Dollars to Percival E. Jackson and Clinton T. Roe, their counsel, as reorganization allowances in these proceedings.

833 These appeals were taken pursuant to Section 250 of Chapter X of the National Bankruptcy Act (commonly known as the Chandler Act); they were taken on matters of law from an order making allowances of compensation and reimbursement; they were taken independently of any other appeals in this proceeding; they were and are being heard summarily upon the original papers, and in all respects constitute the class of appeals mentioned in and provided for in Section 250 of Chapter X.

That no applications for leave to take such appeals have been made to this Court and such appeals have not been allowed by this Court.

In consequence, these appellees believe that such appeals should and must be dismissed.

834 The determination of this question involves a reconsideration of the decision of this Court in the case of *London v. O'Dougherty*, 102 F. (2d) 524, in the light of the conflicting opinion of the Circuit Court of Appeals of the Seventh Circuit in the case of *In re Albert Dickinson*, 104 F. (2d) 771, in which, on a petition for rehearing, the question was reconsidered by the Circuit Court of Appeals for the Seventh Circuit in the light of the decision of this Court in *London v. O'Dougherty*, (pp. 776-777) and the original decision of the Seventh Circuit Court adhered to.

In the event that this Court is unwilling to reconsider its decision in *London v. O'Dougherty*, or after reconsideration, adheres thereto, it is respectfully requested, in view of the fact that this Circuit Court of Appeals has rendered a decision in conflict with the decision of the Seventh Circuit Court on appeals on the same matter (Supreme Court



Rules 38, subd. 5B), that this Court certify to the Supreme Court of the United States the question of law here at issue in accordance with Rule 37 of the Rules of the United States Supreme Court. 835

WHEREFORE, these appellees pray accordingly.

PERCIVAL E. JACKSON

(Sworn to, November 30, 1939.)

The above notice of motion and affidavit contains the following decision on the reverse side:

"Motion denied Dec. 6, 1939,

T W. S

A. N. H

E. E. C

C. J. J."

836

Order denying motion of Prudence Advisory Group to dismiss appeals.

# UNITED STATES CIRCUIT COURT OF APPEALS,

## SECOND CIRCUIT.

At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the United States Courthouse in the City of New York, on the 7th day of December one thousand nine hundred and thirty-nine. 837

Present:

HON. THOMAS W. SWAN

HON. AUGUSTUS N. HAND

HON. CHARLES E. CLARK,

Circuit Judges.

[CAPTION]

A motion having been made herein by counsel for the Prudence Securities Advisory Group to dismiss the ap-

838 peals of Prudence-Bonds Corporation (New Corporation) and Reconstruction Finance Corporation for lack of jurisdiction, or in the alternative, that the question of law involved herein be certified to the Supreme Court of the United States,

Upon consideration thereof it is

Ordered that said motion be and hereby is denied.

D. L. ROBERTS

Clerk

839 Order to show cause on application of R. F. C. in C. C. A. to have appeals from Nov. 6, 1939 order heard on original papers, etc.

UNITED STATES CIRCUIT COURT OF APPEALS,

FOR THE SECOND CIRCUIT.

[CAPTION]

Upon the annexed affidavit of James F. Dealy, duly sworn to the 2nd day of January, 1940, and this Court being fully advised, it is

840 ORDERED, that the Debtor, the Trustees of the Debtor, and all intervenors and applicants for allowances in the above entitled proceedings, or their respective attorneys appearing herein, show cause before this Court, at the United States Court House, Foley Square, in the Borough of Manhattan, City and State of New York, Room 1705 thereof, on the 8th day of January, 1940, at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, why an order should not be made herein (a) directing that the appeals to this Court from an order of the United States District Court for the Eastern District of New York, made and entered in these proceedings on November 6, 1939, whereby allowances were fixed for various corporate trustees and their respective attorneys appearing herein, be

heard on the original papers on a date to be fixed by this Court; (b) directing that the papers constituting the Record and Supplemental Record on various other appeals from orders on allowances herein which were argued in this Court on May 22 and 23, 1939, and bearing Docket Number 16632 in this Court, be deemed to constitute a part of the record on appeal on the appeals from the aforesaid order of November 6, 1939; (c) directing the Clerk of this Court to accept from the Clerk of the United States District Court for the Eastern District of New York, such additional original papers as will, with the Record and Supplemental Record on the aforesaid appeals (Docket No. 16632) make up the record on the appeals from the said order of November 6, 1939 as settled by the District Court, by order duly made December 22, 1939; (d) directing that such additional original papers to be received from the Clerk of the District Court together with said Record and Supplemental Record on the appeals in this Court bearing Docket Number 16632, shall constitute the record on appeal on the appeals from the said order of November 6, 1939; and (e) referring said appeals to the Honorables Thomas W. Swan, Augustus N. Hand and Robert P. Patterson, and granting such other and further relief as may be just and proper in the premises; AND sufficient cause appearing therefor, it is further

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ORDERED, that service of this order and the affidavit upon which the same is based, by service of copies thereof, either personally or by mail, upon the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in the above entitled proceeding, or upon their respective attorneys or solicitors appearing in said proceedings, on the 4th day of January, 1940 at or before 5 P. M., shall be deemed good and sufficient service.

843

Dated, New York, N. Y.,  
January 2nd, 1940.

LEARNED HAND  
U. S. Circuit Judge for the  
Second Circuit.



844 Affidavit in support of R. F. C. motion to have appeals from  
Nov. 6, 1939 order heard on original papers, etc.

UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.

[CAPTION]

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

JAMES F. DEALY, being duly sworn, deposes and says:

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(1) I am attorney for the RECONSTRUCTION FINANCE CORPORATION, one of the appellants from the order of November 6, 1939 hereinafter described and am familiar with all the pleadings and proceedings heretofore had herein.

846

(2) This application is made in connection with certain appeals from said order of November 6, 1939 and the relief sought is an order (a) directing that the appeals from said order be heard on the original papers on a date to be fixed by this Court; (b) directing that the papers constituting the Record and Supplemental Record on various other appeals from orders on allowances herein which were argued in this Court on May 22 and 23, 1939, and bearing docket number 16632 in this Court, be deemed to constitute a part of the record on appeal on the appeals from the aforesaid order of November 6, 1939; (c) directing the Clerk of this Court to accept from the Clerk of the United States District Court for the Eastern District of New York, such additional original papers as will, with the Record and Supplemental Record on the aforesaid appeals (Docket No. 16632) make up the record on the appeals from the order of the District Court of November 6, 1939, as settled by the District Court, by order duly made December 22, 1939; (d) directing that



such additional original papers to be received from the Clerk of the District Court together with said Record and Supplemental Record on the appeals in this Court bearing Docket No. 16632, shall constitute the record on appeal on the appeals from the order of the District Court on November 6, 1939; and (e) referring said appeals to the Honorables Thomas W. Swan, Augustus N. Hand and Robert P. Patterson, Judges of this Court. 847

(3) The order of the District Court of November 6, 1939 approved the report of Special Master James G. Moore herein dated December 12, 1938 which recommended that certain allowances be awarded to various corporate trustees involved in this proceeding and their respective attorneys, and approved that part of another report of said Special Master James G. Moore dated November 30, 1938 which recommended the rejection of the application of Charles H. Kelby and Clifford S. Kelsey; as Trustees of New York Investors, Inc., for an allowance from the estate of the Debtor herein for reimbursement of expenses. Appeals from said order were taken by the following parties: 848

- (a) Reconstruction Finance Corporation;
- (b) Prudence-Bonds Corporation (New Corporation);
- (c) Brooklyn Trust Company, as Trustee of Prudence-Bonds, Eighth Series and Cullen & Dykman, Esqs.;
- (d) Charles H. Kelby, as Trustee of New York Investors, Inc.; 849
- (e) City Bank Farmers Trust Company, as Trustee of Prudence-Bonds, Series AIA, Third, Fourth, Seventh and Seventeenth Series and Delafield, Marsh, Porter & Hope, Esqs.;
- (f) The Chase National Bank of the City of New York, as Trustee of Prudence-Bonds, Fourteenth Series and Milbank, Tweed & Hope, Esqs.;
- (g) Manufacturers Trust Company, as Trustee of Prudence-Bonds, Twelfth and Thirteenth Series and Newman & Bisco, Esqs.;

850

- (h) President and Directors of The Manhattan Company, as Trustee of Prudence-Bonds, Fifth and Ninth Series;
- (i) Simpson Thacher & Bartlett, Esqs., and Sonnenschein, Berkson, Lautmann, Levinson & Morse, Esqs.;
- (j) Carter, Ledyard & Milburn, Esqs.;
- (k) Larkin, Rathbone & Perry, Esqs.; and
- (l) The Marine Midland Trust Company of New York, as Trustee of Prudence-Bonds, Sixteenth Series and Sullivan & Cromwell, Esqs.

851

(4) There have been included in the record on the appeals from the order of November 6, 1939, as settled by the District Court, all the papers, records and documents constituting the Record and Supplemental Record on appeals now pending in this Court under Docket No. 16632. Those appeals which were heard by this Court on May 22 and 23, 1939, were appeals by Reconstruction Finance Corporation, Prudence-Bonds Corporation (New Corporation) and various other parties, from fifteen orders on allowances in the above proceedings, made in the United States District Court for the Eastern District of New York on February 14, 16 and 21, 1939, respectively. On or about July 26, 1939 this court (Judges Thomas W. Swan, Augustus N. Hand and Robert P. Patterson) reversed that part of one of the orders appealed from which deferred consideration of allowances to the corporate trustees and their attorneys herein.

852

On such reversal this Court remanded the matter to the District Court with instructions to pass upon such allowances, directed the filing of a supplemental record showing the subsequent proceedings, and reserved decision on the remaining appeals. The District Judge thereupon proceeded in accordance with the mandate of this Court to pass upon the allowances recommended to be made to the corporate trustees and their counsel by a special master's report of December 12, 1938 and the order of November 6,

1939, now also appealed from, was entered to carry out his decision thereon, and a supplemental record showing the subsequent proceedings, was duly settled by the District Court and filed in this Court. Such Record and Supplemental Record contain, among other things, all papers upon which the order now appealed from was based. The entire Record and Supplemental Record on such appeals was properly made a part of the record on the appeals from the order of November 6, 1939, among other reasons, because one of the principal points relied on by the appellants Reconstruction Finance Corporation and Prudence-Bonds Corporation (New Corporation) in opposition to the granting of the allowances now appealed from, was and is that the total cost of this reorganization is unreasonable and excessive and all allowances must be considered by this Court in reviewing the allowances awarded by the order of November 6, 1939.

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(5) The appeals from the order of November 6, 1939 are of the character which by virtue of Section 250 of Chapter X of the Chandler Act are to be heard summarily in this Court on the original papers.

(6) The reason why an order to show cause is requested is that it will be necessary to serve 49 separate attorneys or firms, some of whom are outside the state and deponent desires that this court direct that service of a copy of the order to show cause applied for and of this affidavit, may be made either personally or by mail within a time to be fixed therein.

855

(7) No previous application has been made for the relief herein requested.

(8) Deponent therefore prays for an order granting the relief outlined in paragraph "(2)" hereof. Deponent believes that the granting of this relief will inure to the benefit of all parties to this proceeding and will serve the convenience of the court. Substantially the only papers necessary



856 for the determination of the present appeals which are not included in the aforesaid Record and Supplemental Record now on file in this Court are notices of appeal by various appellants, designations of the parties and the additional papers designated by the Trustee of New York Investors, Inc. in connection with his appeal.

JAMES F. DEALY.

(Sworn to January 2, 1940.)

Order granting motion to have appeals from order of Nov. 6, 1939 heard on original papers, etc.

857

At a Stated Term of the United States Circuit Court of Appeals in and for the Second Circuit, held at the United States Court House in the City of New York on the 8th day of January, 1940.

Present:

HON. LEARNED HAND,  
HON. HARRIE B. CHASE,  
HON. CHARLES C. CLARK,  
Circuit Judges.

[CAPTION.]

858

A motion having been made herein by counsel for appellant Reconstruction Finance Corporation, for an order (a) directing that the appeals from an order on allowances herein made on November 6, 1939, by the United States District Court for the Eastern District of New York, be heard on the original papers on a date to be fixed by this Court; (b) directing that the papers constituting the Record and Supplemental Record on various other appeals from orders on allowances herein bearing Docket Number 16632 in this Court, be deemed to constitute a part of the record on ap-



peal on the appeals from the aforesaid order of November 6, 1939; (c) directing the Clerk of this Court to accept from the Clerk of the United States District Court for the Eastern District of New York, such additional original papers which, with the Record and Supplemental Record on the aforesaid appeals (Docket No. 16632) make up the record on the appeals from the said order of November 6, 1939 as settled by the District Court by order duly made December 22, 1939; (d) directing that such additional original papers to be received from the Clerk of the District Court together with said Record and Supplemental Record on the appeals in this Court bearing Docket Number 16632, shall constitute the record on appeal on the appeals from the said order of November 6, 1939; and (e) referring said appeals to the Honorables Thomas W. Swan, Augustus N. Hand and Robert P. Patterson; and no one appearing in opposition thereto;

Upon consideration thereof, it is

ORDERED that the said motion be, and the same hereby is, in all respects granted, and the aforesaid appeals be set down for argument on February 13, 1940.

D. E. ROBERTS

Clerk

Notice of motion by Prudence Advisory Group, et al., for reargument of motion to dismiss.

UNITED STATES CIRCUIT COURT OF APPEALS,

FOR THE SECOND CIRCUIT.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of PERCIVAL E. JACKSON, duly verified March 12, 1940 and upon all other papers and proceedings had herein, the under-

862 signed will move this Court at a Term for Motions thereof, to be held in the Court Room of the Circuit Court of Appeals for the Second Circuit, at the Court House, Foley Square, Borough of Manhattan, City and State of New York, on the 18th day of March, 1940 at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an order granting reargument of the motion made by the appellees, Prudence Securities Advisory Group, Percival E. Jackson and Clinton T. Roe, which was denied by order of this Court, dated December 6, 1939 and upon such reargument, dismissing the appeals of Prudence Bonds Corporation (new corporation) and Reconstruction Finance Corporation, upon the ground that leave to take such appeals was not allowed by this Court pursuant to Section 250 of the Bankruptcy Act of 1938 (commonly known as the Chandler Act), and for such other and further relief as to the Court may seem just and proper.

863

Dated, New York, March 12th, 1940.

Yours, etc.,

PERCIVAL E. JACKSON and CLINTON T. ROE,  
Attorneys for Appellee, Prudence  
Securities Advisory Group and  
pro se,

Office & P. O. Address,  
68 William Street,  
Borough of Manhattan,  
City of New York.

864 To:

CHARLES M. McCARTY, Esq.,  
Attorney for Appellant, Prudence-  
Bonds Corporation (new corporation)  
100 East 42nd Street,  
New York City.

JAMES F. DEALY, Esq.,  
Attorney for Appellant, Reconstruction  
Finance Corporation,  
30 Broad Street,  
New York City.

**Affidavit of Percival E. Jackson in support of motion  
for reargument.**

865

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

[CAPTION]

STATE OF NEW YORK  
CITY OF NEW YORK  
COUNTY OF NEW YORK } ss.:

PERCIVAL E. JACKSON, being duly sworn, deposes and  
says:

866

With Clinton T. Roe, I am one of the appellees herein and represent Prudence Securities Advisory Group, also an appellee, to all of whom allowances for services rendered and disbursements incurred were duly made herein.

That the appellants attempted to appeal therefrom but failed to obtain leave of this Court and in consequence thereof said appellees moved in this Court to dismiss such appeals upon the authority of *In re Albert Dickinson Company*, 104 F. (2d) 771, and requested this Court to disregard its contrary decision in *London vs. O'Dougherty*, 102 F. (2d) 524. The allegations contained in the affidavit submitted in support of that motion are made part hereof with the same force and effect as if herein set forth at length. That such motion of these appellees was denied by this Court. That thereafter, the United States Supreme Court, having granted certiorari in the Dickinson case, on March 11, 1940 affirmed the ruling of the Seventh Circuit Court of Appeals in the Dickinson case and disapproved the ruling of this Court in *London vs. O'Dougherty* in an opinion by Mr. Justice Douglas, which opinion is annexed hereto and made part hereof with the same force and effect as if herein set forth at length.

867

868 WHEREFORE, I pray a reargument of the motion heretofore made and for an order dismissing the appeals heretofore taken by Prudence Bonds Corporation and Reconstruction Finance Corporation from the order made by Hon. Robert A. Inch, District Judge, dated February 14, 1939, awarding compensation to George A. Gaston, Ralph DeWitt Keller, Edward S. Doyle, A. C. Horn, Arthur M. Abell, George G. Hanna, constituting the Prudence Securities Advisory Group, and to Percival E. Jackson and Clinton T. Roe, counsel, and allowing to George A. Gaston, Chairman of the Prudence Securities Advisory Group, sums of money disbursed by the Prudence Securities Advisory Group and/or disbursements incurred, including allowances made for Matthews Brown & Company, accountants.

869 PERCIVAL E. JACKSON

(Sworn to March 12, 1940.)

There is annexed to the foregoing affidavit a copy of the decision of the United States Supreme Court, in Dickinson Industrial Site v. Cowan (decided March 11, 1940) 84 L. Ed. 549.

**Affidavit of Clinton T. Roe in support of motion  
for reargument.**

UNITED STATES CIRCUIT COURT OF APPEALS,

870

FOR THE SECOND CIRCUIT.

[CAPTION]

STATE OF NEW YORK  
CITY OF NEW YORK  
COUNTY OF NEW YORK } ss.:

CLINTON T. ROE, being duly sworn, deposes and says:  
That I together with Percival E. Jackson are the appellees and we represent Prudence Securities Advisory Group, a committee of bondholders, which is also an appellee.



I make this affidavit in support of the motion by said appellees for reargument of a motion heretofore made to dismiss these appeals on the ground that the appeals were not taken in accordance with Section 250 of the Bankruptcy Act as amended and upon such reargument, that said appeals be dismissed. 871

The order appealed from was made by Honorable Robert A. Inch, one of the Judges of the United States District Court for the Eastern District of New York on February 14, 1939. Thereafter, on February 15, 1939, true copies of said order, together with notice of entry, were served on the appellants, Prudence-Bonds Corporation (New Corporation) and the Reconstruction Finance Corporation (the only appellants appealing from the orders in which these appellees are interested) and a copy of the order showing proof of service thereon was duly filed in the Clerk's office within five days after copies of the orders had been served. 872

On March 14, 1939 a motion was returnable before the District Court for leave to appeal. That this was in no wise an attempt to comply with the statute requiring leave to appeal by the appellate court in order that the appeal might be perfected, appears by the petitions submitted on these motions wherein they stated that the reason the motion was made is to obviate any difficulty that might arise by reason of certain decisions which seem to hold that only the trustees of a debtor may appeal from allowances to others unless it be shown that such trustees refused to take such appeals, and it was only for this reason that the applications were made. After the motion had been made in the District Court and on March 15, 1939, notices of appeal were filed in the District Court. No petition of appeal or assignment of errors was ever filed in either the District Court or this Court, except as stated hereinabove. 873

On March 16, 1939 an order to show cause was signed by Honorable Harrie B. Chase, one of the Judges of this Court, setting down motions made by the appellants for a consolidation of various appeals taken by them and others. These

874 papers were not filed in this Court nor any other papers filed in this Court until March 20, 1939, except a note of issue placing the motion for consolidation on the calendar, which was filed on March 17, 1939. The petition praying for consolidation of the various appeals could not be deemed a petition for leave to appeal, nor did the appellants so consider it for the following reasons:

1. The petition of the appellant, Prudence-Bonds Corporation, contained the following statement:

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"27. That your petitioner feeling aggrieved, has duly appealed both on the law and on the facts, from each and every order described in paragraph "25" above, by filing on March 15, 1939, in the office of the Clerk of the United States District Court, Eastern District of New York, a separate notice of appeal, with proof of service thereof by mail and a bond for costs, with respect to each of said orders \* \* \*"  
(Page 12)

The petition of Reconstruction Finance Corporation praying for consolidation, contained the following statement:

876

"Reconstruction Finance Corporation appealed to this Court from all of said orders. Separate notices of appeal with respect to each of these orders were duly filed in the office of the Clerk of the United States District Court for the Eastern District Court of New York on March 15, 1939, \* \* \*." (Page 6)

In neither of these petitions did the appellants pray that this Court exercise its discretion and allow appeals.

2. These appellees heretofore moved this Court to dismiss the appeals on the grounds now urged. The appellants filed no affidavit, but did file a joint brief which contains the following significant statements:

"No leave of this Court was necessary before taking the appeals herein." (Page 1)

"Forty-one appeals (now consolidated) from orders of allowances in this case are pending before

this Court. All these appeals were taken as of right and argued on May 22nd and 23rd, 1939." (Page 9) 877

An examination of this brief permits of no conclusion other than that these appellants appealed to this Court as a matter of right, did not obtain leave to appeal and did not consider the motion for consolidation as a petition addressed to the discretion of this Court requesting allowance of appeal.

3. Another cogent reason exists for the asseption that the petition for consolidation was never intended to be the equivalent of a petition for appeal. The Court will remember that the appeals in this matter were heard in two sections. The first appeal involved allowances to the trustees of the debtor, their counsel, committees and others. The latter group of appeals involved allowances made to the corporate trustees. The order granting allowances to the corporate trustees was made on November 6, 1939 and the motion for the consolidation of those appeals was not made until forty days had elapsed from the entry of the order. 878

It is respectfully submitted that if the appellants intended, by petition for consolidation, to move this Court to exercise its discretion in determining whether leave to appeal should be granted, the appellants would have filed a petition for the consolidation of this later group of appeals within the time permitted by the statute for taking an appeal. This they did not do. Are we to assume, therefore, in the light of their present argument, that they intended to appeal only from the first batch of appeals and not from the second? 879

One matter arises that requires further clarification. The order consolidating the first group of appeals provides that the motion be granted "without prejudice to a motion to dismiss said appeals." I have been advised and verily believe that this was inserted at the instance of my associate, Mr. Jackson (Mr. Jackson is presently in California and for that reason this affidavit is made by myself) who



880 stated to the Court that he wished to move to dismiss the appeals on the grounds that leave to appeal had not been obtained and that the appellants were not parties aggrieved. The fact is that a draft of motion papers to dismiss for failure to obtain leave of this Court were prepared and it was only upon reading the opinion of London vs. O'Dougherty in the Advance Sheets that we withheld making the motion. In any event the clause referred to is clear and means what it says and even if it were not present the questions raised on this motion could be presented to this Court for jurisdiction may never be waived or consented to (Old Nick Williams Co. vs. U. S. 215 U. S. 541, 54 L. Ed. 318).

881 WHEREFORE, I pray that this Court grant reargument of the motion heretofore made by Prudence Securities Advisory Group and Clinton T. Roe and Percival E. Jackson to dismiss the appeals of Prudence Bonds Corporation (new corporation) and Reconstruction Finance Corporation and upon such reargument, that the appeals be dismissed for lack of jurisdiction.

CLINTON T. ROE

(Sworn to March 22, 1940.)

Notice of motion of Independent Committee to dismiss  
appeals.

882 UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of LEONARD KLABER, duly verified the 13th day of March, 1934, and upon all the papers and proceedings had herein, the undersigned will move this Court at a Term for Motions



thereof, to be held in the Courtroom of the Circuit Court of Appeals for the Second Circuit, at the Courthouse, Foley Square, Borough of Manhattan, City and State of New York, on the 18th day of March, 1940, at 10:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard for an order dismissing the appeals of Prudence-Bonds Corporation (the new corporation) and Reconstruction Finance Corporation from a certain order dated February 21, 1939, made by the United States District Court for the Eastern District of New York, awarding compensation and disbursements to these appellees, on the ground that leave to take such appeals was not allowed by this Court, pursuant to Section 250 of the Bankruptcy Act of 1938 (commonly known as the Chandler Act).

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Dated, New York, March 13th, 1940.

Yours etc.,

GEORGE M. JAFFIN and LEONARD KLABER,  
Pro Se and as Attorneys for the  
Independent Prudence Bondholders Protective Committee,

Office & P. O. Address,

285 Madison Avenue  
Borough of Manhattan,  
City of New York.

To:

CHARLES M. McCARTY,  
Attorney for Prudence-Bonds Corporation  
(New Corporation) Appellant,  
100 East 42nd Street,  
Borough of Manhattan,  
City of New York.

885

JAMES F. DEALY,  
Attorney for Reconstruction Finance  
Corporation, Appellant,  
30 Broad Street,  
Borough of Manhattan,  
City of New York.

**886 Affidavit in support of motion by Independent Committee  
to dismiss appeals.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

**[CAPTION]**

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

**LEONARD KLABER**, being duly sworn, deposes and says:

**887** That **GEORGE M. JAFFIN** and myself, jointly, are appellees herein. We represent the **INDEPENDENT PRUDENCE BOND-HOLDERS PROTECTIVE COMMITTEE**, which is also an appellee herein.

**888** The appeals involving said appellees were taken by the **PRUDENCE BONDS CORPORATION** (the new corporation) and **RECONSTRUCTION FINANCE CORPORATION** from an order made by Hon. Robert A. Inch, one of the Judges of the United States District Court for the Eastern District of New York, entered on the 21st day of February, 1939, which allowed members of the **INDEPENDENT PRUDENCE BONDHOLDERS PROTECTIVE COMMITTEE** the sum of Fifteen Hundred (\$1500.) Dollars, and allowed **GEORGE M. JAFFIN** and **LEONARD KLABER**, their counsel, the sum of Twenty-five Thousand (\$25,000.) Dollars as compensation for their services in the reorganization, and the further sum of Fifteen Hundred Fifty-six Dollars and Seventy-eight Cents (\$1556.78) for their disbursements incurred therein.

The appeals by the **PRUDENCE BONDS CORPORATION** (the new corporation) and the **RECONSTRUCTION FINANCE CORPORATION** from the allowances granted to the **INDEPENDENT PRUDENCE BONDHOLDERS PROTECTIVE COMMITTEE** and their attorneys, **GEORGE M. JAFFIN** and **LEONARD KLABER**, as afore-

said, were taken pursuant to Section 250 of Chapter X of the National Bankruptcy Act (commonly known as the Chandler Act); they were taken on matters of law from an order making allowances of compensation and reimbursement; they were taken independently of any other appeals in this proceeding; they were and are being heard summarily upon the original papers, and in all respects constitute the class of appeals mentioned in and provided for in Section 250 of Chapter X. 889

No applications for leave to take such appeals have been made to this Court, and the time to perfect any such appeals has expired.

WHEREFORE, these appellees pray that in accordance with the authority of *The Dickinson Industrial Site, Inc. v. Percy Cowan, et al.*, decided by the United States Supreme Court on March 11th, 1940, a copy of which deponent respectfully begs leave to submit upon the argument of this motion, such appeals should and must be dismissed. 890

LEONARD KLABER.

(Sworn to March 13, 1940.)

**Supplemental affidavit in support of motion by Independent Committee to dismiss appeals.**

[CAPTION]

891

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

LEONARD KLABER, being duly sworn, deposes and says that GEORGE M. JAFFIN and your deponent are the attorneys for the INDEPENDENT PRUDENCE BONDHOLDERS PROTECTIVE COMMITTEE, and for themselves as counsel for said Committee, both appellees in this proceeding. This affidavit is

892 being submitted in support of the motion of said appellees to dismiss the pending appeals, and by way of reply to the opposing affidavits heretofore submitted by JAMES F. DEALY and CHARLES M. McCARTY.

In accordance with the decision in the case of DICKINSON INDUSTRIAL SITE, INC. vs. COWAN, et al., referred to in the original moving papers, application for motion to dismiss should be granted in the instant case because the appellants did not make any application addressed to this Court for leave to appeal as required by law. As stated by Mr. Dealy, on the second page of his affidavit:

"In no case was leave to take the appeals formally requested of this Court."

893 Furthermore, at the end of the second full paragraph on page 3 of his affidavit, the following statement is made:

"Mr. McCarty and I concluded that it was unnecessary to make an application to this Court for leave to take the present appeals, so advised our clients and took the appeals by notices of appeal."

The appellants now argue that the order of consolidation should now be considered by this Court to be the equivalent of an application for leave to appeal in accordance with the requirement of the statute. This contention is unsound for the following reasons:

894 1st: In applying for an order of consolidation, the PRUDENCE-BONDS CORPORATION petition verified March 16th, 1939, at paragraph 27 thereof, stated:

"27. That your petitioner feeling aggrieved, has duly appealed both on the law and on the facts, from each and every order described in paragraph '25' above, by filing on March 15, 1939, in the office of the Clerk of the United States District Court, Eastern District of New York, a separate notice of appeal, with proof of service thereof by mail and a bond for costs, with respect to each of said orders \* \* \*"



Similar language is contained in the application of the RECONSTRUCTION FINANCE CORPORATION, likewise submitted 895 in support of the motion for consolidation.

In view of these recitals, it cannot now be argued that the order of consolidation was the equivalent of granting leave to appeal, especially since the appellants themselves, at the very time of the consolidation application, already considered themselves properly before this Court.

2nd: These appellees did not oppose the application for an order of consolidation. If, however, they had thought that the order of consolidation might even remotely be construed as an application for leave to appeal, they most assuredly would have addressed themselves to this Court more than a year ago, in support of their contention that there had not been an abuse of discretion. All the parties to this proceeding had a right to assume that the application for consolidation was nothing more than a motion of mere administrative convenience. 896

3rd: Finally, the order of consolidation itself, entered March 22nd, 1939, provides:

"Ordered that said motions be and hereby are granted, without prejudice to a motion to dismiss said appeals."

There are now two groups of appeals claimed to be pending before this Court. The original group involved fees and disbursements awarded by Judge Inch, aggregating approximately \$478,000.00. The first order of consolidation was entered with respect to this group only. The second involved fees and allowances awarded to the Corporate Trustees, their counsel and others, aggregating over \$600,000.00. As to the first group of appeals, it is urged by the appellants that the original order of consolidation was filed within the statutory period. However, as to the second, it is admitted that the order of consolidation was not filed within such period. 897

898 If the strained and unsound interpretation of the order of consolidation now advanced by the appellants, were adopted by this Court, the very result originally sought by the appellants, namely, a consideration of the entire costs of the reorganization, would be frustrated.

In view of these facts, it is apparent that the appellants have not complied with the provisions of Section 250 of the National Bankruptcy Act, as determined by the so-called Chandler Act, and for that reason, in accordance with the decision of the *DICKINSON* case, it is respectfully submitted that the pending appeals be dismissed.

LEONARD KLABER.

899 (Sworn to March 22, 1940.)

**Affidavit of James F. Dealy in opposition to motions to dismiss appeals.**

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

[CAPTION]

900 STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

**JAMES F. DEALY**, being duly sworn, deposes and says:

I am attorney for appellant Reconstruction Finance Corporation (hereinafter called "RFC"), and make this affidavit in opposition (a) to the motion by Prudence Securities Advisory Group and their attorneys to reargue their motion to dismiss and (b) to the motion to dismiss made by Independent Prudence Bondholders Protective Committee and their attorneys.

The motion by the Prudence Securities Advisory Group relates to appeals from an order made February 14, 1939, copy of which was served on appellants on February 15, 1939. 901

The motion by Independent Prudence Bondholders Protective Committee relates to appeals from an order made February 21, 1939, entered on motion of the moving parties. No copy of this order was served on appellants.

The motions are directed only to the appeals taken from the orders granting allowances to the moving parties. The District Judge had held the Chandler Act applicable. However, a total of fifty-four separate appeals, in two separate groups, were taken herein from seventeen similar orders (Vol. 1, papers 47-61; Supplemental Record, paper 5). The first group of appeals, including those awarding allowances to the moving parties, were consolidated, ordered to be heard on the original papers and were argued and finally submitted on May 22 and 23, 1939. The second group of appeals, all being from one order, made pursuant to the direction of this Court in *In re Prudence Bonds Corp.*, 106 F. (2d) 44, were heard together and finally submitted on February 17, 1940. Except as passed upon by this Court in *In re Prudence Bonds Corporation*, *supra*, all of the foregoing appeals are still pending and undetermined. 902

Each of the fifty-four appeals was taken by filing a separate notice of appeal in the district court and by taking other appropriate steps under the Federal Rules of Civil Procedure. All of said appeals were taken in matters of fact as well as of law (Vol. 1, papers 2-42, inclusive; Vol A, papers 2, 5, 8-17, inclusive). In no case was leave to take the appeals formally requested of this Court. 903

The appeals taken in the first group by RFC and the Prudence-Bonds Corporation (herein referred to as "New Corporation") were taken by separate notices of appeal filed March 15, 1939, rather than by application for leave, in reliance on the decision of this Court in *London v. O'Dougherty*, 102 F. (2d), 524. The application for leave to

904 appeal in the *London* case was heard by this Court and denied from the Bench on March 6, 1939. Thereafter, and on March 13, 1939, this Court filed a *per curiam* opinion in that case, along with two other opinions relating to practice on appeals under the Chandler Act. (*Siegel v. Margiotta*, 102 Fed. (2d) 525, *Robertson v. Berger*, 102 Fed. (2d), 530.)

Mr. London, who made the application for leave which was denied in the *London* case, is one of the appellants in this case (Vol. 1, paper 35), and I learned of the decision in the *London* case within a few days after the motion was argued and decided.

905 The question of the proper procedure in taking the present appeals, in view of the then recent amendments to the Bankruptcy Act, the enactment of the Federal Rules of Civil Procedure and the amended General Orders in Bankruptcy, was very carefully considered by Mr. McCarty, attorney for the New Corporation, and by me before the appeals were taken. I also conferred with the Clerk of this Court and of the District Court in connection therewith. Prior to the time these appeals were taken I was advised by the Clerk of the District Court that he believed he could not accept any of the papers except the bond on appeal, ordinarily filed in the District Court under the practice on appeals from orders of this character under Section 77-B, on the ground that the proper way to take the appeal was by a notice of appeal. In view of the *London* decision and the practice in this Court established by it, Mr. McCarty and I 906 concluded that it was unnecessary to make an application to this Court for leave to take the present appeals, so advised our clients and took the appeals by notices of appeal.

I am advised that since the decision of the *London* case on March 6, 1939, the Clerk of this Court has kept available in his office a copy of the *London* decision and exhibited same to attorneys inquiring as to the procedure in connection with appeals from orders on allowances under the Bankruptcy Act. I know that since the *London* decision it has been followed and that it established the settled practice



in this Circuit for the taking of appeals on allowances under the Bankruptcy Act. I am also advised that the few formal applications which were made for leave to appeal in such cases after the *London* decision was filed were summarily denied by this Court on the ground that the same were unnecessary. I know that since the *London* decision appeals from orders on allowances in bankruptcy proceedings taken solely by notice of appeal have been heard and decided and that the practice established by the *London* decision has become well settled in this Circuit. 907

The extreme care which was exercised by appellants in connection with these appeals is further indicated by the motions made on notice to all interested parties, and granted in the District Court for leave to take these appeals. Those motions were made so that there might be no ground for possible technical objection to appeals by RFC and the New Corporation under the doctrine of *Chatfield v. O'Dwyer*, 101 Fed. 797, *Christian v. R. Hoe & Co. Inc.*, 79 Fed. (2nd) 541, and similar cases. Such cases held, and I believed it was and still is, the law, that only the trustee in bankruptcy was the proper party to prosecute appeals from orders on allowances unless for good cause shown to the District Court it authorized the taking of such appeals by other interested parties. 908

On the hearing of said motions before the District Court it was shown that the trustees of the debtor had conveyed to the New Corporation their interests in the collateral underlying the debtor's eighteen series of bonds and had taken the position they had been superseded by the New Corporation, had therefore not objected to any applications for allowances herein and were doubtful that they were proper parties to appeal (Vol. 1, paper 43). The RFC, the New Corporation and the trustees of the Prudence Company, Inc. had been the only parties who objected to allowances in the District Court. In these circumstances, the District Court, as above indicated, granted the applications, although Judge Inch stated he did not believe they were necessary. 909

910 In this very case, Mr. McCarty, as attorney for the New Corporation, had on February 6, 1939, applied for leave to appeal from an order which was subsequently reversed by this Court on said appeal (*Central Han. Bk. v. President and Directors of Manhattan Company et al.*, 105 Fed. (2) 130). That order involved a question of the jurisdiction of the District Court. At the time such appeal was taken the Amended General Orders in Bankruptcy had not yet become effective and there was a doubt (later resolved in *Robertson v. Berger*, 102 Fed. (2d) 530, in a decision filed simultaneously with the *London* decision) whether the order was appealable as a matter of right since no sum of money was specified in the order and since this Court had not yet passed on the question. As the RFC was vitally interested in the success of said appeal and as the practice in this Circuit had not as yet been established by any decision, as counsel for RFC in this proceeding, I concurred in the decision of the New Corporation to apply for leave and personally attended the hearing of the application. Therefore, if Mr. McCarty, attorney for the New Corporation, or I at the time we took the present appeals for our clients, had any doubt of appellants' right to rely on the *London* decision in taking appeal by notice of appeal, we certainly would have applied to this Court for leave.

912 Appellants RFC and the New Corporation did, however, prior to the expiration of the time to appeal, formally move this Court for relief in connection with these appeals. On March 16, 1939, orders to show cause herein were obtained by appellants. These orders, which are made a part hereof, were signed by Judge Harrie B. Chase and required the debtor, the trustees of the debtor and all intervenors and applicants for allowances or their respective attorneys herein to show cause before this Court on March 20, 1939, why an order should not be made herein consolidating all the appeals which had been taken, directing the acceptance by the Clerk of this Court for filing one transcript of record covering all of said appeals consisting of the original papers

upon which they were based, and for such other and further relief as might be proper. In accordance with said orders they were duly served on the moving parties as well as on all other appellees on said 16th day of March, 1939. 913

Proof of the due service thereof was, thereafter, duly filed herein and is hereby made a part hereof. The aforesaid orders to show cause were based respectively on an affidavit by Jerome Thralls, Esq., Special Representative of RFC in charge of this matter, and on a petition of the New Corporation, both of which were duly verified March 16, 1939.

The aforesaid affidavit and petition (both of which are also respectfully made a part hereof) contained, among other pertinent facts, complete statements of the proceedings in the lower court respecting allowances, the excessive costs of the reorganization and reasons appellants believed the District Court had committed reversible errors. Both of said papers specifically called attention of the Court to Sec. 250 of the Bankruptcy Act. 914

Said applications were heard on March 20, 1939, the first motion day after the signing of the order to show cause, and were thereupon duly granted by order made herein on March 22, 1939, which order is hereby respectfully referred to and made a part hereof.

Mr. Percival E. Jackson appeared at the hearing of those applications and stated to this Court that he might wish to raise the question that neither RFC nor the New Corporation were proper parties to appeal and that although he did not oppose said applications he did not wish to be precluded from moving to dismiss the appeals on such ground. The Court said the order would provide that it was without prejudice to such a motion to dismiss. None of the appellees objected on the return of said applications that they should be denied or the appeals dismissed for the reason that appellants had not made out a prima facie case of the merits of their appeal or had specifically requested this Court for leave to appeal. 915

916 In December, 1939, almost seven months after the appeals from the orders granting allowances to the moving parties were argued and finally submitted to this Court, the Prudence Securities Advisory Group and Percival E. Jackson and Clinton T. Roe, its attorneys, made a motion to dismiss the appeals on the basis of the decision in the *Dickinson* case which had been rendered by the Circuit Court of Appeals in the Seventh Circuit on May 22, 1939. Such motion was denied by this Court by order duly made December 6, 1939.

917 Great hardship would result if these appeals were now to be dismissed by reason of the decision of the Supreme Court in *Dickinson Industrial Site, Inc. v. Cowan*, U. S., , decided March 11, 1940. Appellant RFC has incurred substantial expense in perfecting these appeals. In addition, I am advised that there are over 35,000 holders of bonds reorganized in this proceeding. The rights and investments of all these bondholders would be severely impaired by the granting of a dismissal of these appeals since the entire cost of the reorganization is taken out of the trust funds belonging to these bondholders.

918 The appeals of RFC and the New Corporation raise important issues. In their briefs and oral argument said appellants contend that substantially all allowances awarded by the District Court were grossly excessive; that the total cost of this reorganization exceeded the staggering sum of \$1,500,000, or about 2¾% of the principal amount of outstanding bonds and approximately 10% of the recognized market value of such bonds at the time the applications for allowances were filed Vol. 18, paper 632, p. 17). Said appellants further showed that costs of several comparable reorganizations ranged from .42% to 1.96% of the bonds therein reorganized (Vol. 18, paper 628, p. 3). Appellants further showed that no principal payments had been made to bondholders before the reorganization was completed on bonds in seven of the eighteen series of the principal amount of \$23,534,500, while in seven other series the principal pay-



ments varied from \$20 to \$100 per \$1,000 bond, and in only four series had the total principal payments exceeded 10%; that interest remained unpaid on one series from November 1, 1932, on four other series from 1933, on four additional series from 1934, and on six series from 1935 (Vol. 18, paper 628, p. 2); and that the total unpaid interest on the bonds reorganized at the date of the consummation of the plans amounted to over \$10,200,000 (Vol. 18, paper 632, p. 302). Appellant Prudence-Bonds Corporation also contended as a matter of law that the District Court erred in awarding any allowances whatever to four minority bondholders committees and their attorneys, including the moving parties, on the ground that the proxies which said committees solicited bondholders to sign provided in substance that the signing thereof was without expense or financial obligation to bondholders or would not obligate them to pay any fees or expenses of said committees (Point I of brief of appellant New Corporation). Nevertheless, the allowances to be paid out of the trust funds belonging to these bondholders awarded by the District Court to said four committees and their attorneys aggregate \$146,450 for services and \$29,314.86 for disbursements (Vol. 1, papers 47, 48, 50, 53).

In addition to the foregoing, numerous steps and proceedings have been taken in and a vast amount of time devoted to these appeals by appellants, their counsel, the District Court and this Court. In order that the Court may be aware of the magnitude of the effort which would be nullified by the granting of these motions I shall enumerate some of the proceedings which have been had and some of the things which have been done here in reliance upon this Court's decision in *London v. O'Dougherty*, supra.

The first group of appeals herein were argued and finally submitted on May 22 and 23, 1939. On July 26, 1939, this Court, by its *Per Curiam* decision herein (*In re Prudence-Bonds Corporation*, 106 F. (2d) 44), directed the District Court to pass on the petition for allowances to the Corporate

922 Trustees and their attorneys, for the reasons that "the aggregate of administration costs, always an important factor in determining the reasonableness of allowances, is wholly uncertain". In its opinion this Court also stated (p. 45):

"Decision of the other appeals will be held in abeyance pending disposition by the district court on the application for allowances by the corporate trustees and their attorneys, which disposition may be brought to our attention by a supplemental record."

923 By order of this Court dated August 7, 1939, the Clerk was directed to return the original papers, constituting the consolidated record on the aforesaid appeals, to the District Court for its temporary use in completing the above decision. Thereafter, the mandate on the decision of this Court was filed in the District Court on August 15, 1939, and order entered thereon September 18, 1939 (Supplemental Record, papers, 1, 3).

924 Subsequently Judge Inch (Supplemental Record, papers 4-5) granted allowances of \$626,097.20 to the Corporate Trustees and their attorneys as recommended by the Special Master and approved the recommendation of the Special Master denying the application of the Trustees of New York Investors, Inc. for reimbursement of expenses. The District Judge stated that he was taking such action to comply with the decision of this Court.

Promptly, thereafter, RFC and the New Corporation moved to settle the Supplemental Record showing the action of the District Judge, as required by this Court's decision. Such Supplemental Record was accordingly settled by order of the District Court (Supplemental Record, papers 6-7) and, thereafter duly filed in this Court.

RFC and the New Corporation each appealed from the allowances to the Corporate Trustees and their counsel by notice of appeal duly filed November 30, 1939, following the practice adopted on the former appeals (Vol. A, papers 2,

3). Likewise, they had separately moved for and obtained from the District Court leave to take these appeals (Vol. A, papers 3, 4, 6, 7). 925

Ten other appeals from said order of November 6, 1939, were also taken to this Court (Vol. A, papers 8 to 17, inclusive).

None of the aforesaid appellants applied to or specifically obtained leave to appeal from this Court.

Thereafter, upon notice to all interested parties, appellants applied to the District Court for an order settling the record on the appeals from the above order granting allowances to the Corporate Trustees and their counsel; fixing the time for filing said record in accordance with Rule 73(g) of the Federal Rules of Civil Procedure; providing for the certification of said record on appeal; and directing that the original record and supplemental record on appeal, on the appeals from the orders of February 14, 16 and 21, 1939, then pending and undetermined in this Court, be deemed a part of the record on the appeals from the order of November 6, 1939 (Vol. C, paper 68). Said motion was heard by the District Court on December 15, 1939, and granted by order dated December 22, 1939 (Vol. C, paper 69). 926

Thereafter, upon notice to the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances, appellants duly moved in this Court for an order (a) directing that the appeals to this Court from the order of November 6, 1939, be heard on the original papers on a date to be fixed by this Court; (b) directing that the papers constituting the record and supplemental record on the appeals from orders on allowances which were argued in this Court on May 22 and 23, 1939, be deemed to constitute a part of the record on the appeals from the order of November 6, 1939; (c) directing the Clerk of this Court to accept from the Clerk of the District Court such additional original papers as would make up the record on the appeals from the order of November 6, 1939, as settled by the District 927

928 Court; (d) directing that such additional original papers to be received from the Clerk of the District Court, together with said record and supplemental record, shall constitute the record on appeal on the appeals from said order of November 6, 1939; and (e) referring said appeals to the Honorable Thomas W. Swan, Augustus N. Hand and Robert P. Patterson, the Judges of this Court who heard the appeals from orders on allowances argued on May 22 and 23, 1939, as aforesaid, and for other and further relief as might be just and proper in the premises. Said motion was heard by this Court on January 8, 1940, and was in all respects granted by order dated the same day, which order provided that the appeals from the order of November 6, 1939, be set down for argument on February 13, 1940. Said motion papers and order are made a part hereof.

929

The record on appeal was duly filed in this Court on January 25, 1940, in accordance with orders therefor duly obtained from the District Court. Appellants' and appellees' briefs were duly filed in this Court and the appeals from the said order of November 6, 1939, were duly argued before this Court on February 17, 1940. Said appeal as well as all prior appeals from the above mentioned orders on allowances are pending in this Court undetermined, except in so far as the appeals from part of one of said orders was disposed of by the decision of this Court in *In re Prudence-Bonds Corporation*, 106 F. (2d) 44.

930

WHEREFORE, your deponent, on behalf of appellants Reconstruction Finance Corporation and Prudence-Bonds Corporation (New Corporation), respectfully requests that the aforesaid motions be denied and if further application for leave to appeal should be deemed necessary, that it be considered made by said appellants and granted, with respect to all pending appeals, on the basis of the filed papers.

JAMES F. DEALY

(Sworn to March 18, 1940.)



**Affidavit of Charles M. McCarty in opposition to motions  
to dismiss appeals.** 931

**UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.**

[CAPTION]

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

CHARLES M. MCCARTY, being duly sworn, deposes and  
says:

932

I am attorney for appellant Prudence-Bonds Corporation, the New Corporation formed pursuant to the Plans of Reorganization confirmed in the above entitled proceedings, and I make this affidavit in opposition to the motion of appellees Prudence Securities Advisory Group and its attorneys, to reargue their motion to dismiss appeals of appellants Reconstruction Finance Corporation and Prudence-Bonds Corporation, and the motion of appellees Independent Prudence Bondholders Protective Committee and its attorneys, to dismiss appeals of said appellants. As attorney for appellant New Corporation, I have collaborated with James F. Dealy, Esq., attorney for appellant Reconstruction Finance Corporation, in respect of all steps and proceedings taken by said appellants in connection with their appeals pending herein.

933

I have read the annexed affidavit of said James F. Dealy, duly verified the 18th day of March, 1940, and I know the contents thereof and the statements contained therein are true and correct.

WHEREFORE, your deponent, on behalf of appellants Reconstruction Finance Corporation and Prudence-Bonds Corporation (New Corporation), respectfully requests that the

934 aforesaid motions be denied and if further application for leave to appeal should be deemed necessary, that it be considered made by said appellants and granted, with respect to all pending appeals, on the basis of the filed papers.

CHARLES M. McCARTY

(Sworn to March 18, 1940.)

**Supplemental Affidavit of Charles M. McCarty in opposition to motions to dismiss appeals.**

UNITED STATES CIRCUIT COURT OF APPEALS,

935

FOR THE SECOND CIRCUIT.

[CAPTION]

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

CHARLES M. McCARTY, being duly sworn, deposes and says:

936 I am attorney for appellant Prudence-Bonds Corporation (New Corporation) and make this affidavit supplemental to my affidavit and the affidavit of James F. Dealy, in opposition to the motions to dismiss appeals in the above matter.

On the argument of these motions, on March 18, 1939, Percival E. Jackson, attorney for moving parties, contended, with respect to the appeals of appellants RFC and the New Corporation, from the order of the District Court made February 14, 1939, granting allowances to Prudence Securities Advisory Group and its attorneys, that no paper was filed in this Court on or before March 17, 1939, the time to appeal from said order. In the affidavit of James F.

Dealy, in opposition to these motions, it is pointed out and established by the records of this Court, that on March 16, 1939, appellants RFC and the New Corporation obtained orders to show cause, signed by Judge Harrie B. Chase, on their respective applications to consolidate these appeals and have them heard upon the original papers and for other relief, as more specifically set forth in said orders to show cause. Those orders to show cause were signed upon the affidavit of Jerome Thralls, Special Representative of RFC, verified March 16, 1939, and the petition of the New Corporation, verified the same day. Mr. Thrall's affidavit concluded with the following prayer for relief:

"Wherefore, deponent respectfully prays that an order in the form submitted herewith be made herein requiring the Debtor, the Trustees of the Debtor and all intervenors and applicants for allowances in the above-entitled proceeding or their respective attorneys appearing herein, to show cause at a time and place to be fixed in said order, why an order should not be made herein consolidating for all purposes the aforesaid appeals of Reconstruction Finance Corporation from the orders hereinabove referred to as well as the appeals hereinabove referred to, taken by the new Prudence-Bonds Corporation, directing that one transcript of record covering all of said appeals be filed and directing the Clerk of this Court to accept such transcript of record, consisting of the original papers upon which said appeals are to be heard, when duly certified by the Clerk of the United States District Court for the Eastern District of New York, and why such other and further relief as may be just and proper in the premises should not be granted to said Reconstruction Finance Corporation."

The petition of the New Corporation concluded with the following prayer for relief:

"WHEREFORE, your petitioner respectfully prays, that an order be made herein consolidating, for all purposes, the appeals of your petitioner from the orders described in paragraph '25' above as well as

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the appeals hereinabove referred to taken by Reconstruction Finance Corporation, directing that one transcript of record covering all of said appeals be filed and directing the Clerk of this Court to accept such transcript of record, consisting of the original papers upon which said appeals are to be heard, when duly certified by the Clerk of the United States District Court for the Eastern District of New York, and granting such other and further relief as may be just and proper in the premises, and that an order to show cause in the form hereto annexed be granted."

941

Copies of said orders to show cause, affidavit and petition were served on March 16, 1939, as provided by the orders to show cause. On March 17, 1939, appellant RFC and appellant New Corporation each filed in the office of the Clerk of this Court a Note of Issue with respect to each of said motions. Said Notes of Issue which are on file herein are hereby made a part hereof. I personally delivered to the Clerk of this Court on March 17, 1939, the said order to show cause and petition of the New Corporation with proof of due service thereof, and said Note of Issue, and was advised by him that under the rules of this Court, a Note of Issue is the only paper which can be filed in the office of the Clerk, prior to the return day of a motion and that the motion papers with proof of service are required to be filed in open Court the day of the argument of the particular motion.

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On March 20, 1939, the above mentioned motions of appellants RFC and the New Corporation to consolidate appeals, to have them heard on the original papers and for other relief, were heard by this Court and granted, the motion papers filed on that day, and an order granting said motions was signed on March 22, 1939. On April 4, 1939, certified copy of said order was filed in the office of the Clerk of the District Court.

I was present upon the argument of the above mentioned motions of appellants RFC and the New Corporation, which were heard on March 20, 1939, and no one contended or



suggested to this Court, that said motions should be denied for the reason leave to appeal had not been applied for or duly obtained by said appellants. It was, however, stated by Mr. Jackson that appellants were not proper parties to appeal and that he wanted to reserve his rights to move to dismiss upon such ground. He has never done so, although the point was discussed in a brief filed jointly by him and the attorneys for three other Committees. Louis G. Bernstein, Esq., one of the attorneys for appellees Metz Committee and Rabenold, Scribner & Miller, Esqs., its attorneys, appeared on said motions and called the attention of this Court to the fact that Section 250 of the Bankruptcy Act required that the appeals be summarily heard and requested such a summary hearing. This Court then, and upon Mr. Bernstein's statement, tentatively set the appeals down for argument on April 17, 1939.

Thereafter, by notice of motion dated April 6, 1939, returnable April 10, 1939, a motion was made by the New Corporation upon my affidavit verified April 6, 1939, to consolidate an appeal subsequently taken by Edward Endelman and Jacob A. Freedman, by notice of appeal dated March 22, 1939, with the appeals consolidated by the order of this Court dated March 22, 1939. Said motion was heard before this Court on April 10, 1939 and granted by order signed the same day, with leave to appellants Endelman and Freedman to print a record on appeal to include only such documents as relate to the question presented for determination by their appeal. Said order and the papers upon which it was granted which are on file herein are hereby made a part hereof.

By notice of motion dated April 12, 1939, upon the affidavit of J. M. Richardson Lyeth, verified the same day, a motion was also made to this Court, on notice to all intervenors and applicants for allowances, by the attorneys for President & Directors of the Manhattan Company, for an order consolidating the aforesaid appeals of RFC and the New Corporation consolidated by the aforesaid order of

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this Court dated March 22, 1939, with appeals taken by President & Directors of the Manhattan Company and Carter, Ledyard & Milburn, its attorneys; City Bank Farmers Trust Company and Delafield, Marsh, Porter & Hope, its attorneys; Brooklyn Trust Company and Cullen & Dykman, its attorneys; Simpson Thacher & Bartlett; Manufacturers Trust Company and Newman & Bisco, its attorneys; and the appeals of such other parties as should in the discretion of this Court be consolidated therewith; and providing that one transcript of record, consisting of the original papers of the District Court, should cover all of said appeals, and further providing, that all of said appeals should be heard together at the same time, and granting such other and further relief as to this Court might seem just and proper in the premises. Said motion came on to be heard before this Court on April 17, 1939; and was granted and an order duly signed. Said motion papers and order which are on file herein are hereby made a part hereof.

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On April 17, 1939, the then pending appeals as consolidated, from all orders on allowances, appeared on the calendar of this Court and I was present in Court on that day. The record on appeal had not yet been settled or filed and the attorney for appellant RFC requested an adjournment. Percival E. Jackson, attorney for himself and other appellees, advised this Court he was ready to argue the appeals and opposed such application for an adjournment. This Court, however, adjourned the appeals to May 15, 1939. Briefs were, thereafter, filed by appellants and appellees and on May 19, 1939, said appeals, as consolidated, were again on the day calendar of this Court but were not reached for argument until May 22, 1939 and were argued on that day and on May 23, 1939. The principal oral argument in opposition to the appeals of RFC and the New Corporation was made by Mr. Jackson. Mr. Jackson also filed an appellee's brief, as did Messrs. Jaffin & Klaber. Both Mr. Jackson and Messrs. Jaffin & Klaber, to-

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gether with the attorneys for two other Committees, also filed a joint brief on behalf of said appellees.

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As shown by the foregoing facts, the appeals which were argued before this Court on May 22 and 23, 1939, had previously been on the calendar of this Court or before this Court upon motion on four separate days and the best evidence of the fact, that neither Mr. Jackson nor any other appellee or attorney raised any question of the validity of those appeals because leave to appeal had not been obtained, is the many briefs of the appellees on file in this Court, none of which raise any such question.

In addition to RFC and the New Corporation, the following parties, attorneys or law firms are appellants in the appeals herein from orders on allowances (some of which appeals were decided *In re Prudence-Bonds Corporation*, 106 F. (2d) 44):

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Harry H. Oshrin, Esq. (notice of appeal dated March 16, 1939, Vol. 1, paper 31);

Alfred T. Davison, Esq. (notice of appeal dated March 18, 1939, Vol. 1, paper 33);

Prudence Bondholders Protective Association (notice of appeal dated March 20, 1939, Vol. 1, paper 34);

Leon London, Esq., Alfred E. Herz, Esq., Alexander E. Klupt, Esq., and McKercher & Link, Esqs., (notice of appeal dated March 20, 1939, Vol. 1, paper 35);

William T. Cowin, as Trustee of The Prudence Company, Inc. (notice of appeal dated March 22, 1939, Vol. 1, paper 38);

Lawrence R. Condon, Esq., (notice of appeal dated March 22, 1939, Vol. 1, paper 41);

951

Edward Endelman and Jacob A. Freedman (notice of appeal dated March 22, 1939, Endelman printed record on appeal);

Archibald Palmer, Esq., (notice of appeal dated March 23, 1939, Vol. 1, paper 42);

Brooklyn Trust Company and Cullen & Dykman, its attorneys (notice of appeal dated March 21, 1939, Vol. 1, paper 37, and notice of appeal dated November 8, 1939, Vol. A, paper 8);

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Charles H. Kelby, as Trustee of New York Investors, Inc. (notice of appeal dated November 14, 1939, Vol. A, paper 9);

City Bank Farmers Trust Company and Delafield, Marsh, Porter & Hope, its attorneys (notice of appeal dated March 21, 1939, Vol. 1, paper 36, and notice of appeal dated November 14, 1939, Vol. A, paper 10);

The Chase National Bank of the City of New York and Milbank, Tweed & Hope, its attorneys (notice of appeal dated November 17, 1939, Vol. A, paper 11);

Manufacturers Trust Company and Newman & Bisco, its attorneys (notice of appeal dated March 22, 1939, Vol. 1, paper 40, and notice of appeal dated November 15, 1939, Vol. A, paper 12);

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President and Directors of the Manhattan Company (notices of appeal dated March 17, 1939, Vol. 1, paper 3, and notice of appeal dated November 20, 1939, Vol. A, paper 13);

Simpson Thacher & Bartlett, Esqs. (notice of appeal dated March 22, 1939, Vol. 1, paper 39, and notice of appeal dated November 22, 1939, Vol. A, paper 14);

Carter, Ledyard & Milburn, Esqs., (notice of appeal dated March 17, 1938, Vol. 1, paper 32, and notice of appeal dated November 16, 1939, Vol. A, paper 15);

Larkin, Rathbone & Perry, Esqs. (notice of appeal dated November 20, 1939, Vol. A, paper 16);

The Marine Midland Trust Company of New York and Sullivan & Cromwell, its attorneys (notice of appeal dated November 28, 1939, Vol. A, paper 17).

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None of the foregoing appellants specifically applied to this Court for leave to appeal.

WHEREFORE, your deponent on behalf of appellants RFC and the New Corporation respectfully prays, that the motions to dismiss appeals be denied.

CHARLES M. McCARTY.

(Sworn to March 22, 1940).



Majority opinion of C. C. A. 2d on motions to dismiss  
appeals.

955

UNITED STATES CIRCUIT COURT OF APPEALS,  
FOR THE SECOND CIRCUIT.

No. 229—October Term, 1939

(Motion argued March 18, 1940. Decided April 5, 1940.)

[CAPTION]

Appeals from the District Court of the United States for  
the Eastern District of New York.

956

On motions to dismiss for lack of jurisdiction. Appeals  
dismissed.

Before:

SWAN, AUGUSTUS N. HAND and PATTERSON,

Circuit Judges.

PERCIVAL E. JACKSON and CLINTON T. ROE, GEORGE M.  
HAFFIN and LEONARD KLABER, for the motions.

JAMES F. DEALY, CHARLES M. MCCARTY, IRVING L.

SCHANZER and J. M. RICHARDSON LYETH, in  
opposition.

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SWAN, Circuit Judge:

This case embraces a large number of appeals from orders granting or refusing allowances of compensation or reimbursement in a corporate reorganization proceeding which was initiated in 1934 pursuant to section 77B of the Bankruptcy Act. 11 U. S. C. A. Sec. 207. All the appeals

958 were taken after the Chandler Act was in effect. Orders of consolidation have been entered by this court directing that the appeals be heard upon a consolidated and supplemental record. The first group of appeals was argued in May 1939, and an order was entered on the appeal of Bank of Manhattan Company and others in the same position, directing the district court to determine the allowances to be awarded the corporate trustees and their attorneys; decision of the other appeals—those relating to allowances to committees and their attorneys—was held in abeyance. *In re Prudence-Bonds Corporation*, 106 F. (2d) 44. In compliance with our direction the district court passed upon the applications for allowance by the corporate trustees and their attorneys by its order of November 6, 1939. This order was brought to  
 959 our attention by a supplemental record. Argument on this second group of appeals was had February 16, 1940. While the case was under advisement as to both groups of appeals, the Supreme Court, on March 11, 1940 handed down its decision in *The Dickinson Industrial Site Inc. v. Cowan*. Thereupon certain of the appellees moved for dismissal of the appeals for want of jurisdiction. Even in the absence of such motion this court would be obliged to consider the question of its own jurisdiction in the light of the *Dickinson* decision.

960 The *Dickinson* case holds that appeals from orders granting or refusing allowances of compensation or reimbursement in corporate reorganizations must be taken under section 250 of the Chandler Act, 52 Stat. 901, and "may be had only at the discretion of" the appellate court. This court had previously held that appeals from such orders, where the amount involved exceeded \$500, could be taken as of right under section 24(a) and required no allowance by the appellate court. *London v. O'Dougherty*, 102 F. (2d) 524. In reliance upon that decision each of the appeals at bar was taken by filing a notice of appeal in the district court, and no application for leave to appeal was made to this court at any time. Consequently the question arises whether this

court has jurisdiction to consider the merits or must dismiss the appeals for failure of the appellants to comply with section 250. 961

Section 250 provides that appeals of the character of those under discussion "may, in the manner and within the time provided for appeals by this Act, be taken to and allowed by the circuit court of appeals." This language may well mean that both the taking and the allowance of the appeal must be within the time limited by the Act; that is, the 30 or 40 days specified in section 25(a). 52 Stat. 855. We should not hesitate, however, to hold that a request for allowance within the time limited would serve to give the court jurisdiction, although the request was acted upon later. See *In re Foster Construction Corp.*, 49 F. (2d) 213 (C. C. A. 2). But even if the time limitation modifies only the verb "taken," the question remains whether an appeal which lies only in the discretion of the appellate court can be said to be taken "in the manner and within the time provided for appeals" by merely filing a notice of appeal in the district court. The phrase "in the manner" can only refer back to section 24(b), which reads: "Such appellate jurisdiction shall be exercised by appeal and in the form and manner of an appeal." The language is so general as to leave at large "the form and manner of an appeal," whether it be an appeal as of right or one requiring allowance of the appellate court. However, section 24(b) is obviously derived from similar language in section 24(b) of the Bankruptcy Act as amended by the Act of May 27, 1926, 44 Stat. 664, which has received judicial interpretation. 962 963

The first sentence of the section as amended declared that circuit courts of appeal shall have jurisdiction to revise in matter of law the "proceedings" of the courts of bankruptcy. The second sentence read as follows:

"Such power shall be exercised by appeal and in the form and manner of an appeal, except in the cases mentioned in said section 25 ( ) to be allowed in the discretion of the appellate court."

- 964 Prior to the 1926 amendment "controversies" were reviewable in matter of law and fact by appeal, and "proceedings" were reviewable in matter of law by petition to revise. The amendment did away with the petition to revise. It did not change the nature of the review of "proceedings" (still confined to matter of law) but directed that it should be had "in the form and manner of an appeal" and "be allowed in the discretion of the appellate court." Section 24(c), 44 Stat. 665, provided that all appeals should be taken within 30 days. In construing the 1926 amendment it was universally held that appeals under section 24(a), required a petition for appeal to be filed in the district court within 30 days from entry of the order appealed from; while in discretionary appeals under section 24(b) the application for allowance must be made to the appellate court within such 30 days. Unless such timely application was made, the appellate court lacked jurisdiction. As this court said in its opinion in *In re Torgovnick*, 49 F. (2d) 210, 211, "it is abundantly settled that application to this court for leave to appeal must be made within thirty days after entry of the order, and that allowance by the District Court will not serve." Numerous cases from other circuits were cited in support of this statement. See also *Robie v. Hart, Schaffner & Marx*, 40 F. (2d) 871 (C. C. A. 8); *In re Federal Photo Engraving Corp.*, 54 F. (2d) 628 (C. C. A. 2); *Holmes v. Davison*, 84 F. (2d) 111 (C. C. A. 9); *Meyer v. Kenmore Hotel Co.*, 297 U. S. 160, and cases cited therein. After the enactment of section 77B it was authoritatively determined that an order making or refusing an allowance of attorney's fees was appealable only under section 24(b). *Shulman v. Wilson-Sheridan Hotel Co.*, 301 U. S. 172, affirmed a decision of the seventh circuit holding that the court lacked jurisdiction where no application for allowance of the appeal had been made to it.
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With the foregoing judicial history as to the interpretation of the 1926 amendment of section 24(b), we do not think it possible to hold that an appeal under the Chandler



Act, taken as of right by filing a notice of appeal in the district court in a case requiring allowance by the appellate court, gives that court jurisdiction to allow it at any time, although no application for allowance was made within the time prescribed for taking an appeal. It is true the fifth circuit appears to have done this in two cases. - *Baxter v. Savings Bank*, 92 F. (2d) 404; *Wilson v. Alliance Life Ins. Co.*, 102 F. (2d) 365. But those cases contain no discussion of the problem and no reference to the court's own ruling to the contrary in construing section 24(b) as amended in 1926. *Shoreland Co. v. Conklin*, 30 F. (2d) 489 (C. C. A. 5). 967

Order 36 of the General Orders in Bankruptcy effective February 13, 1939—a date prior to any of the appeals in the case at bar—deals with appeals as follows:

“Appeals shall be regulated, except as otherwise provided in the Act, by the rules governing appeals in civil actions in the courts of the United States, including the Rules of Civil Procedure for the District Courts of the United States.” 968

Rule 73(a) of the Rules of Civil Procedure declares that when an appeal is permitted by law a party may appeal, within the time prescribed, by filing with the district court a notice of appeal. Failure to take further steps is not jurisdictional, but is ground only for such remedies as are specified in the rule or, when no remedy is specified, for such action as the appellate court deems appropriate, which may include dismissal of the appeal. It is to be observed that neither in Order 36 nor in Rule 73 is any distinction made between appeals as of right and appeals discretionary with the appellate court. The former General Order 36 likewise made no such distinction\*; nevertheless the cases already 969

\* Prior to the 1939 revision Order XXXVI of General Orders in Bankruptcy provided:

“1. Appeals from a court of bankruptcy to a circuit court of appeals, or to the supreme court of a Territory, shall be allowed by a judge of the court appealed from or of the court appealed to, and shall be regulated, except as otherwise provided in the act, by the rules governing appeals in equity in the courts of the United States.”

970 cited show that an appeal granted by the district judge would not serve for a discretionary appeal under section 24(b). It is true that discretionary appeals at that time brought up for review only matter of law, and that orders now appealable under section 250 of the Chandler Act bring up both law and fact, as does an appeal of right under section 24(a). But the fact that both types of appeal provide the same breadth of review, does not appear to be a relevant consideration in determining the "manner" of taking a discretionary appeal. While it may be argued that the new General Order, incorporating Rule 73, contemplates only one "manner" of taking an appeal, the Supreme Court can hardly have meant that in appeals lying in the discretion of the appellate court a notice of appeal filed in the district court should be the correct procedure for taking the appeal.

971 Such a contention flies in the face not only of the former practice under the 1926 amendment but also of the *Dickinson* case itself, where the very point urged for dismissal was that the appellants had not filed notice of appeal in the district court. Where an appeal is discretionary with the appellate court, we are reluctantly forced to the conclusion that the appeal is taken in a jurisdiction sense only by filing in the circuit court of appeals, within the time prescribed in section 25(a), some paper which serves as a request to that court for leave to appeal.

972 The other arguments advanced in opposition to granting the motions at bar will not withstand scrutiny: (a) The recent decision of the Supreme Court in *Chicot County Drainage Dist. v. Baxter State Bank*, 308 U. S. 371, deals with the subject of collateral attack upon a judgment of an appellate court; it has nothing to do with the problem at bar, where our jurisdiction is attacked directly. (b) Arguments based on *Taylor v. Voss*, 271 U. S. 176, and similar cases, are not persuasive that an appeal as of right will serve as an application to the appellate court for leave to appeal. Cf. *In re Kenmore Granville Hotel Co.*, 90 F. (2d) 151, 152 (C. C. A. 7). The statute construed in the *Taylor* case contained no

provision that petitions to revise were to be allowed in the discretion of the appellate court. It was apparently the practice to file petitions to revise in the circuit court of appeals, but we have found nothing to indicate that any order granting leave to file the petition was required. See *In re B. & R. Glove Corp.*, 279 F. 372, 374 (C. C. A. 2); Rule 16 of this court, printed in Collier, Bankruptcy, 13th ed. p. 2984. 973

(c) The argument that the motion for leave to consolidate the appeals was equivalent to a motion for leave to appeal belies the facts. The appellants did not seek to have us allow the appeals, for they believed it unnecessary in view of our *London* decision; and in granting the motion we exercised no discretion with respect to allowance of the appeals for the same reason. (d) To protect the appellants merely because they were misled by our erroneous construction of the statute, now overruled by the Supreme Court, would require us to go contrary to elementary principles governing appellate jurisdiction. See *Alaska Packers v. Pillsbury*, 301 U. S. 174. 974

Finally, it is argued on behalf of the appellants who are corporate trustees, that their appeals in part are not governed by section 250 but lie as of right, because part of their claim for compensation is for services under the trust indentures and was secured by lien thereunder until the corporate trustees were induced to turn over the collateral upon the understanding that their liens would be protected and continued. An order determining the amount of compensation secured by a lien is literally within the terms of section 250 as an order "making allowances of compensation or reimbursement." There would seem to be as much reason for an appeal from such an order to be discretionary as in the case of an order allowing fees which are unsecured. If the order deals with both types of compensation, as does the order under consideration, it is extremely unlikely that Congress meant that two appeals should be necessary to bring it up for review; one taken as of right, the other by leave of court. Article XIII of Chapter X of the Chandler 975

976 Act deals comprehensively with compensation and allowances. Included therein is section 242(1) which specifically mentions the compensation and reimbursement of an indenture trustee and makes no distinction between lien and non-lien services. Section 250, dealing with appeals, must embrace all appeals from orders making or refusing allowances authorized by other sections of the article. We believe section 250 is applicable to all parts of the order of November 6th. So much of the order as defers payment of the lien compensation awarded the corporate trustees is but incidental to the order of allowance and is likewise governed by section 250.

977 Believing that this court is without jurisdiction to allow the appeals at this late day, we are constrained to grant the motions for dismissal of the appeals to which they are directed, and to dismiss of our own motion the other appeals herein.

It is so ordered.

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**Dissenting opinion of Judge A. N. Hand on motions to dismiss appeals.**

AUGUSTUS N. HAND, Circuit Judge (dissenting):

978 It is with misgiving that I dissent from the conclusion reached by the majority of the court to the effect that the appeals in the foregoing proceeding must be dismissed for lack of jurisdiction for the conclusion my brethren have reached is in accord with numerous decisions in the United States Courts of Appeals. The Fifth Circuit, however, recently denied motions to dismiss appeals perfected under Section 24(a) in *Baxter v. Savings Bank*, 92 F. (2d) 404, and *Wallace v. Alliance Life Ins. Co.*, 102 F. (2d) 365, and treated appeals attempted under Section 24(a) without obtaining leave as though taken under Section 24(b) where leave was required.



The appeals here involve orders fixing compensation to the aggregate of hundreds of thousands of dollars. There is serious dispute both over the denial of compensation to some of the parties and over the amounts allowed to others. The awards affect great numbers of holders of participation certificates in one of the most extensive mortgage guaranty enterprises in New York. If a review of the orders may not be had the failure to obtain it will not be due to any neglect of the parties, but solely to their inevitable reliance upon our decision in *London v. O'Dougherty*, 102 F. (2d) 524, which controlled the practice in this court until it was held erroneous by the Supreme Court in *Dickinson Industrial Site Inc. v. Cowan*, handed down on March 11, 1940.

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Not only are the awards of compensation so substantial as to be very important to persons interested in the Prudence Bonds Corporation, but the question whether this court has or has not acquired jurisdiction over an appeal where a party has taken timely steps to institute it is one of general interest and is one which I believe the Supreme Court has never conclusively determined. In *Shulman v. Wilson-Sheridan Hotel Co.*, 301 U. S. 172, the Supreme Court did hold that the Circuit Court of Appeals of the Seventh Circuit rightly dismissed an appeal which had been taken as though a matter of right, when it properly lay only under Section 24(b) of the Bankruptcy Act where leave had to be obtained. The decision, however, was not placed by the Supreme Court on lack of jurisdiction but upon failure to conform to statutory requirements. Under Section 250 of the Chandler Act the appeal in the present case should have been taken by applying to this court for leave so that the mere filing of a notice of appeal in the District Court without petition to this court for leave was clearly irregular. Yet it does not follow that this court is entirely lacking in jurisdiction over the appeal. In *Bryan v. Bernheimer*, 181 U. S. 188; *Holden v. Stratton*, 191 U. S. 115, and *Taylor v. Voss*, 271 U. S. 176, the Supreme Court treated appeals taken as a matter of right and petitions to revise under

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982 Section 24(b) as sufficient to sustain jurisdiction over the appeals, whatever might be the proper mode of review, and authorized such additional steps as might be necessary to perfect the appeal. In other words, under those decisions, we may allow the appeals in the present case, as we certainly should do if the majority thought jurisdiction existed upon which further action might be founded. Although in most cases we should refuse to exercise our jurisdiction if the deviation from the correct procedure were not completely justified, the rigorous rule against permitting appeals where the time to institute them has elapsed would be sufficiently preserved if no more should be required to create jurisdiction than the filing of a notice of appeal. This would seem to be in conformity with the spirit of Rule 73(a) 983 of the new rules.

The recent decision of the Supreme Court in *Alaska Packers v. Pillsbury*, 301 U. S. 174, may be thought to indicate that the filing in this court of a petition for allowance of an appeal is a jurisdictional requirement. But in that case the court only held that the Ninth Circuit was without power to make a rule effecting appeals in admiralty by means of the mere filing of a notice of appeal where a statute in effect forbade such an appeal unless it were allowed after application duly made. The consideration of the case was apparently limited to the effect of the rule and the Supreme Court never dealt with the question whether the Circuit Court of Appeals could have sent the case back to the District Court to allow the appeal if it thought best. The decision only forbade the Circuit Court of Appeals from making 984 a prospective rule covering all appeals in admiralty and precluding the District Court from exercising any discretion as to whether a particular appeal should be allowed or not.

In my opinion the motion to dismiss should be denied and the various appeals allowed.

Order of C. C. A. 2d dismissing appeals and for mandate.

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UNITED STATES CIRCUIT COURT OF APPEALS,

FOR THE SECOND CIRCUIT.

[CAPTION]

SIRS:

PLEASE TAKE NOTICE that the within is a true copy of a proposed order in the above entitled matter which will be lodged with the Clerk of the United States Circuit Court of Appeals for the Second Circuit at his office in the United States Courthouse, Foley Square, Borough of Manhattan, City, County and State of New York, on the 19th day of April, 1940 at 10:30 o'clock in the forenoon of that day, for transmission by him to the above named court at the time fixed by it for the signing of an order on its decision dated April 5, 1940, dismissing appeals herein.

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Dated, New York, N. Y., April 16, 1940.

Yours, etc.,

JAMES F. DEALY,  
Attorney for Appellant, Recon-  
struction Finance Corporation,  
Office & P. O. Address,

30 Broad Street,  
New York, N. Y.

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CHARLES M. MCCARTY,  
Attorney for Appellant, Pru-  
dence-Bonds Corporation,  
(New Corporation),  
Office & P. O. Address,  
100 East 42nd Street,  
New York, N. Y.

The foregoing notice is addressed to all parties in interest.

988 UNITED STATES CIRCUIT COURT OF APPEALS,  
SECOND CIRCUIT.

At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the United States Court House in the City of New York, on the 23 day of April, one thousand nine hundred and forty.

Present:

989 Hon. THOMAS W. SWAN,  
Hon. AUGUSTUS N. HAND,  
Hon. ROBERT P. PATTERSON.  
Circuit Judges.

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[CAPTION]

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990 A motion having been made in this Court by Prudenece Securities Advisory Group and Percival E. Jackson and Clinton T. Roe, Esqs., its attorneys, by notice of motion dated November 30, 1939, to dismiss the appeals of Reconstruction Finance Corporation, an intervenor herein (hereinafter referred to as "RFC"), and Prudence-Bonds Corporation, the New Corporation formed pursuant to the Plans of Reorganization confirmed in this proceeding (hereinafter referred to as the "New Corporation"), from the order of the United States District Court for the Eastern District of New York, made and entered February 14, 1939, granting allowances in the aggregate sum of \$65,720.05 to said moving parties, and said motion having come on to be heard before this Court on December 4, 1939, and having been denied by order of this Court made December 7, 1939;

And a further motion having been made herein by the said parties, by notice of motion dated March 12, 1940, for



reargument of their aforesaid motion to dismiss said appeals, and a motion also having been made herein by Independent Prudence Bondholders Protective Committee and George M. Jaffin and Leonard Klaber, Esqs., its attorneys, by notice of motion dated March 13, 1940, to dismiss the appeals of RFC and the New Corporation from the order of the District Court made and entered February 21, 1939, granting allowances in the aggregate sum of \$28,056.78 to said moving parties;

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AND said motions having come on to be heard before this Court on March 18, 1940, and after hearing Percival E. Jackson and George M. Jaffin, Esqs., of counsel for said moving parties respectively, in support of said motions, and James F. Dealy, Esq., attorney for Reconstruction Finance Corporation, Charles M. McCarty, Esq., attorney for the New Corporation, Edward Endelman and Jacob A. Freedman, Esqs., Pro Se, by Edward Endelman, Esq., of counsel, Irving L. Schanzer, Esq., of counsel for William T. Cowin, as Trustee of The Prudence Company, Inc., and J. M. Richardson Lyeth, Esq., of counsel for President and Directors of the Manhattan Company, in opposition to said motions;

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AND it appearing that in reliance upon the decision of this Court in *London v. O'Dougherty*, 102 F. (2d) 524, none of the appellants named in the notices of appeal hereinafter mentioned, made application to this Court within the time within which said appeals were required to be taken, for leave to take any of said appeals;

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Now, upon the following papers, to wit;

(1) Notice of motion of Prudence Securities Advisory Group and Percival E. Jackson and Clinton T. Roe, Esqs. its attorneys, dated March 12, 1940, the affidavit of Percival E. Jackson, verified March 12, 1940, and the affidavit of Clinton T. Roe, verified March 22, 1940;

(2) Notice of motion of Prudence Securities Advisory Group and Percival E. Jackson and Clinton T.

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Roe, Esqs., its attorneys, dated November 30, 1939, the affidavit of Percival E. Jackson, verified November 30, 1939, and the order of this Court made December 7, 1939, denying said motion;

(3) Notice of motion of Independent Prudence Bondholders Protective Committee and George M. Jaffin and Leonard Klaber, Esqs., its attorneys, dated March 13, 1940, and the affidavits of Leonard Klaber, verified March 13, 1940 and March 22, 1940;

(4) Affidavit of James F. Dealy, verified March 18, 1940; and affidavits of Charles M. McCarty, verified March 18, 1940 and March 22, 1940;

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(5) Sixteen (16) orders of the District Court, made and entered February 14, 16 and 21, 1939, respectively (Vol. 1, papers 47 to 61; Endelman Rec., fols. 483 to 492); being all the orders appealed from in the first group of appeals herein, which were argued on May 22 and May 23, 1939;

(6) Two orders of the District Court, made March 15, 1939, granting leave to RFC and the New Corporation to take appeals from various of the orders mentioned in "(5)" above, and the orders to show cause, the petitions of RFC and the New Corporation and the affidavit of Charles H. Kelby, verified March 14, 1939, upon which said two orders of March 15, 1939 were made (Vol. 1, papers 43 to 45);

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(7) Fourteen (14) notices of appeal of RFC, filed in the office of the Clerk of the District Court, on March 15, 1939 (Vol. 1, papers 17 to 30);

(8) Fifteen (15) notices of appeal of the New Corporation, filed in the office of the Clerk of the District Court, on March 15, 1939 (Vol. 1, papers 2 to 16);

(9) Notice of appeal of Harry H. Oshrin, filed in the office of the Clerk of the District Court, on March 21, 1939 (Vol. 1, paper 31);

(10) Notice of appeal of President and Directors of the Manhattan Company and Carter, Ledyard & Milburn, Esqs., filed in the office of the Clerk of the District Court, on March 23, 1939 (Vol. 1, paper 32);

(11) Notice of appeal of Alfred T. Davison, Esq., filed in the office of the Clerk of the District Court, on March 20, 1939 (Vol. 1, paper 33); 997

(12) Notice of appeal of Prudence Bondholders Protective Association, filed in the office of the Clerk of the District Court, on March 23, 1939 (Vol. 1, paper 34);

(13) Notice of appeal of Leon London, Esq., Alfred E. Herz, Esq., Alexander E. Klupt, Esq., and McKercher & Link, Esqs., filed in the office of the Clerk of the District Court, on March 22, 1939 (Vol. 1, paper 35);

(14) Notice of appeal of City Bank Farmers Trust Company and Delafield, Marsh, Porter & Hope, Esqs., filed in the office of the Clerk of the District Court, on March 23, 1939 (Vol. 1, paper 36);

(15) Notice of appeal of Brooklyn Trust Company and Cullen & Dykman, Esqs., filed in the office of the Clerk of the District Court, on March 23, 1939 (Vol. 1, paper 37); 998

(16) Notice of appeal of William T. Cowin, as Trustee of The Prudence Company, Inc., filed in the office of the Clerk of the District Court, on March 23, 1939 (Vol. 1, paper 38);

(17) Notice of appeal of Simpson Thacher & Bartlett, Esqs., filed in the office of the Clerk of the District Court, on March 29, 1939 (Vol. 1, paper 39);

(18) Notice of appeal of Manufacturers Trust Company and Newman & Bisco, Esqs., filed in the office of the Clerk of the District Court, on March 24, 1939 (Vol. 1, paper 40); 999

(19) Notice of appeal of Lawrence R. Condon, Esq., filed in the office of the Clerk of the District Court, on March 23, 1939 (Vol. 1, paper 41);

(20) Notice of appeal of Archibald Palmer, Esq., filed in the office of the Clerk of the District Court, on March 23, 1939 (Vol. 1, paper 42);

(21) Notice of appeal of Edward Endelman and Jacob A. Freedman, Esqs., filed in the office of the Clerk of the District Court, on March 22, 1939 (Endelman Rec., fol. 493-498);

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(22) Order to show cause, dated March 16, 1939, signed by Hon. Harrie B. Chase of this Court, on application by the New Corporation for order consolidating appeals and to have them heard upon the original papers of the District Court, the petition of the New Corporation, verified March 16, 1939, upon which said application was made, and the note of issue on said application, filed herein March 17, 1939;

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(23) Order to show cause, dated March 16, 1939, signed by Hon. Harrie B. Chase of this Court, on application by RFC for order consolidating appeals and to have them heard upon the original papers of the District Court, the affidavit of Jerome Thralls, verified March 16, 1939, upon which said application was made, and the note of issue on said application, filed herein March 17, 1939;

(24) Order of this Court made March 22, 1939, consolidating appeals taken by the RFC and the New Corporation and ordering that they be heard upon the original papers of the District Court;

(25) Notice of motion of the New Corporation, dated April 6, 1939, for order consolidating the appeal of Edward Endelman and Jacob A. Freedman, Esqs., with the appeals consolidated by order of this Court, made March 22, 1939, the affidavit of Charles M. McCarty, verified April 6, 1939, in support of said motion, the affidavit of Edward Endelman and Jacob A. Freedman, verified April 10, 1939, in opposition to said motion, and the order of this court made April 10, 1939, granting said motion;

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(26) Notice of motion of President and Directors of the Manhattan Company, dated April 12, 1939, for order consolidating the appeals of said appellant and other parties with the appeals of RFC and the New Corporation, the affidavit of J. M. Richardson Lyeth, verified April 12, 1939, in support of said motion, and the order of this Court made April 20, 1939, granting said motion;

(27) Decision of this Court, filed July 26, 1939;

(28) Mandate of this Court, dated August 14, 1939 (Supp. rec., paper 1);



(29) Order of the District Court, made September 18, 1939 (Supp. Rec., paper 3), making the mandate of this Court the order of the District Court; 1003

(30) Order of the District Court made and entered November 6, 1939, appealed from in the second group of appeals herein, which were argued on February 16, 1940 (Supp. Rec., paper 5);

(31) Two orders of the District Court, made November 20, 1939, granting leave to RFC and the New Corporation to appeal from said order made November 6, 1939, and the orders to show cause and the respective petitions of RFC and the New Corporation upon which said two orders of November 20, 1939 were made (Vol. A, papers 3 to 4; 6 to 7);

(32) Notice of appeal of RFC, filed in the office of the Clerk of the District Court, on November 30, 1939 (Vol. A, paper 2); 1004

(33) Notice of appeal of the New Corporation, filed in the office of the Clerk of the District Court, on November 30, 1939 (Vol. A, paper 5);

(34) Notice of appeal of Brooklyn Trust Company and Cullen & Dykman, Esqs., filed in the office of the Clerk of the District Court, on November 9, 1939 (Vol. A, paper 8);

(35) Notice of appeal of Charles H. Kelby, as Trustee of New York Investors, Inc., filed in the office of the Clerk of the District Court, on November 14, 1939 (Vol. A, paper 9);

(36) Notice of appeal of City Bank Farmers Trust Company and Delafield, Marsh, Porter & Hope, Esqs., filed in the office of the Clerk of the District Court, on November 16, 1939 (Vol. A, paper 10); 1005

(37) Notice of appeal of The Chase National Bank of the City of New York and Milbank, Tweed & Hope, Esqs., filed in the office of the Clerk of the District Court, on November 18, 1939 (Vol. A, paper 11);

(38) Notice of appeal of Manufacturers Trust Company and Newman & Bisco, Esqs., filed in the office of the

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Clerk of the District Court, on November 21, 1939 (Vol. A, paper 12);

(39) Notice of appeal of President and Directors of the Manhattan Company, filed in the office of the Clerk of the District Court, on November 24, 1939 (Vol. A, paper 13);

(40) Notice of appeal of Simpson Thacher & Bartlett, Esqs., filed in the office of the Clerk of the District Court, on December 6, 1939 (Vol. A, paper 14);

(41) Notice of appeal of Carter, Ledyard & Milburn, Esqs., filed in the office of the Clerk of the District Court, on November 22, 1939 (Vol. A, paper 15);

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(42) Notice of appeal of Larkin, Rathbone & Perry, Esqs., filed in the office of the Clerk of the District Court, on November 21, 1939 (Vol. A, paper 16);

(43) Notice of appeal of The Marine Midland Trust Company of New York and Sullivan & Cromwell, Esqs., filed in the office of the Clerk of the District Court, on November 30, 1939 (Vol. A, paper 17);

(44) Order to show cause, dated January 2, 1940, signed by Hon. Learned Hand of this Court, on application by RFC for order directing that the appeals from the order of November 6, 1939, be heard upon the original papers of the District Court, the affidavit of James F. Dealy, verified January 2, 1940, upon which said application was made, and the order of this Court made January 8, 1940, granting said application;

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being the only papers which were considered by this Court upon and in deciding the aforesaid motions to dismiss appeals and in making this order; and due deliberation having been had thereon, and upon filing the opinions of this Court dated April 5, 1940; it is

ORDERED, that the aforesaid motions of Prudence Securities Advisory Group and Percival E. Jackson and Clinton T. Roe, Esqs., its attorneys, and of Independent Prudence Bondholders Protective Committee and George M. Jaffin and Leonard Klaber, Esqs., its attorneys, be and the same

hereby are granted, and the appeals of RFC and the New Corporation, against which said motions were directed, be and the same hereby are dismissed; and, upon the Court's own motion, it is further

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ORDERED, that all of the remaining appeals herein covered by the notices of appeal hereinabove referred to, be and the same hereby are also dismissed. Further ordered that a mandate issue accordingly.

THOMAS W. SWAN,  
AUGUSTUS N. HAND,  
ROBERT P. PATTERSON.

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**Clerk's Certificate as to proceedings in Circuit Court of Appeals.**

**UNITED STATES OF AMERICA**

**SOUTHERN DISTRICT OF NEW YORK**

I, D. E. ROBERTS, Clerk of the United States Circuit Court of Appeals for the Second Circuit, do hereby certify that the foregoing pages, numbered from 1 to 154, inclusive, contain true and complete copies of originals thereof on file in said Court, in the case of

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In the Matter

of

Prudence-Bonds Corporation,  
Debtor,

In the Matter of the application for  
allowances for services rendered  
and reimbursement for expenses  
incurred Reconstruction Finance  
Corporation, Prudence-Bonds Cor-  
poration (New Corporation)

Appellants.

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as the same remain of record and on file in my office.

IN TESTIMONY WHEREOF, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this twenty-fifth day of April, in the year of our Lord one thousand nine hundred and forty, and of the Independence of the said United States the one hundred and sixty-fourth.

[SEAL]

D. E. ROBERTS

Clerk.



## SUPREME COURT OF THE UNITED STATES

*Order allowing certiorari*

Filed June 3, 1940

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.